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City of San José. Rules and Open Government Committee.

>> Mayor Reed: I'd like to call the meeting to order. This is Rules and Open Government Committee meeting for January the 20th. (inaudible) agenda. Anything on page 1? Page 2 or 3? Page 4 or 5? 6 or 7? 8 or 9? 10 or 11? 12 or 13?

>> City Attorney Doyle: Mr. Mayor, back on page 11 I believe the administration is requesting along with our office that item 4.5 be dropped.

>> Did that's correct.

>> Mayor Reed: That's the (inaudible).

>> City Attorney Doyle: Correct.

>> Mayor Reed: So apparently, you've got the release signed.

>> City Attorney Doyle: It's not signed yet but it's to be, yes.

>> Councilmember Chirco: And then Chuck.

>> Mayor Reed: Vice Mayor.

>> Councilmember Chirco: On 3.6.

>> Mayor Reed: Appointment to boards and commissions.

>> Councilmember Chirco: I was asking if that could be delayed for two weeks. We have some questions of staff if they could bring more information for the council discussion. One is on the charter change, option B talks about the ballot measure and what it would cost to put it on June or November. And if it could be paid out of the retirement funds. So you know, one, can it be paid, is that legal. And the other one would be, who decides William would that can the retirement board decide, can the council. Those were a couple of questions. On the reporting schedule, there was a question that came up having to do with information questions by the board. If they don't -- if they're dissatisfied with the director, and providing access to the information, do we have a policy on, you know, what is the appeal process? I don't know if we have one or do we need one or should there be one? And then there was one additional question, that during this two weeks' deferral while this information is gathered, if it would be possible for staff to meet with labor on the composition. See if there is a possible compromise, on I know 3-3-1, there's two different ways for that to be put together. You have the 4-3, or 3-3-1 and then 3-3-1. I don't know if there is, but to ask the question just during that time before it comes back. I think the information asked would help us understand because I know proposal B talks about the charter amendment. And that could be a phase 2.

>> Mayor Reed: Okay.

>> City Attorney Doyle: Vice Mayor, is the -- the request to come back to Rules with that information, or to get it to council?

>> Councilmember Chirco: I think it's to council. The information would be hemming council.

>> Mayor Reed: Would put it to which meeting?

>> Lee Price: February 9th.

>> Mayor Reed: Staff, do you have any comments or issues with the deferral other than the fact that date's been noticed to a lot of people to get it out.

>> Alex Gurza: Good afternoon, Alex Gurza, director of employee relations. I think that clearly the council, if the Rules Committee would prefer to refer it, we can do that. I just wanted to point out we tried to do as much outreach as possible, to city employees. Clearly we can send another e-mail out. Retirees it's a little more difficult so we actually this week mailed a letter by U.S. mail to every retiree. So one of the things they may not all receive notice of the deferral and may come to the council meeting on the 26th. We just wanted you to be aware of that. As an alternative, I don't know all the questions particularly the legal ones, but some of the questions asked we could provide an information memo that contains at least some of the answers to that question before the 26th. We could issue that if that's the preference of the committee. Clearly we wouldn't be able to accomplish necessarily another meeting with the bargaining units.

>> Councilmember Chirco: And it's just during that time when the questions are being answered to see if there is -- it could welcome back that there is no compromise possible. That was the ask, and I know I spoke to the mayor, and there wasn't -- it didn't seem the time -- it was a time sensitive issue. And so to honor the --

>> Alex Gurza: Yes, absolutely. There isn't any issue that has to happen before the 26th. There was just an issue to make sure the stakeholders are notified, it would not be -- particularly the retirees. Again we can try to get the word out to the retiree associations but --

>> Councilmember Chirco: This is again a situation where we can take testimony on an issue that has been deferred. And that would be my ask.

>> Councilmember Pyle: I'll second that.

>> Mayor Reed: Does the committee want to defer it, ask the staff to get the word to the councilmembers today, tomorrow with an e-mail, so that councilmembers who have their own e-mail distribution systems will know in advance, and may not see the amended agenda until (inaudible) let everybody know, that will help get the word out. Anything else on this? Nancy.

>> Councilmember Pyle: So with the notification of the retirees would that have to be a post card sent or --

>> Alex Gurza: It would probably be too late for them to get, with the number of retirees and the distance, might be difficult to do. But if the Rules Committee decide to defer it I could as early as this afternoon communicate with the retiree associations who could at least help with us their network in being able to get the word out.

>> Councilmember Chirco: Thank you.

>> Mayor Reed: I think the retiree associations have done a pretty good job of communicating with their members. They have their own way of doing that and probably have a pretty good way of reaching people. That's a request for deferral of that item to April 9th.

>> February.

>> Mayor Reed: April, sorry, February? Lost a whole month or two. I was not quite through I don't think. We got to page 12 or 13. 14 or 15. Or 16. Let me see if I have any requests for additions. No written requests for additions. Any requests for these other than the drop and the deferral?

>> Councilmember Constant: I'll make a motion for approval with those changes.

>> Councilmember Pyle: Well --

>> Mayor Reed: The motion is to approve it with those two changes. The deferral and drop of the one item, I think were the only two changes made. That's the motion. All in favor, opposed, none opposed, we just need to get council notified by e-mail today or tomorrow so that they're aware of it. Thank you. February 2nd council agenda. Anything on page 1? Page 2 or 3? Or 4? I have one request for an addition for excused absence for Councilmember Constant. From a committee meeting for another government meeting. Any other additions? It looks like a short agenda but we have the sign ordinance update. Which will take at least a couple of hours.

>> Councilmember Pyle: Move approval.

>> Mayor Reed: Motion is to approve. All in favor, opposed, none opposed, that's approved. Redevelopment agency agenda for January 26th. Anything on page 1? Page 2 or 3? Or 4?

>> Councilmember Constant: Motion to approve.

>> Councilmember Pyle: Second.

>> Mayor Reed: Motion is to approve. Any other changes or additions? All in favor opposed, none opposed, that's approved. February 2nd.

>> Mr. Mayor, members of the committee, (inaudible) February 2nd at 9 if it remains that way we ask that next week we cancel the afternoon session for the agency (inaudible) closed session joins us with the council.

>> Mayor Reed: Okay. Item C is review of upcoming study sessions agendas, we don't have any agendas to review but we do have another item slightly later here about a couple of study sessions we'll get to as we set the dates. Legislative update, nothing from our staff to add on either state or federal. I would like to report under the state legislative update that Roxann Miller and I went up to meet with Senator Ellen Corbett about the bill she was carrying last year on the card rooms which would have essentially allowed them to move outside of the City of San José. She's decided not to move that bill forward in this session, which is good. And she'd like to have us keep her informed of how we're doing on all of the initiatives and changes that we've already started with the card rooms so that she can keep up to speed on that. And she's quite excited about coming to the opening of the airport which is in her district and she's been wanting to get a tour of the airport. I said now you'll see the finished product on the tour. That was a meeting that Roxann facilitated for me to meet with senator Corbett. I think I'll go back and have another meeting in the end of February early March time frame. Anything you wanted to report on the expedition to Sacramento, Councilmember Pyle? I saw your message inviting councilmembers to volunteer for the trip.

>> Councilmember Pyle: You know it's funny you should ask, mayor. Congratulations by the way on deferring the Corbett bill. I would like to say that we had a wonderful response and it looks to me like

we're going to be able to form two teams to go up which is good. Because we'll have family 1 go and a couple of weeks later have another team two. And it won't be quite as long a day for everybody which is good. So we will hit different people with each of the groups. And I think it will work out extremely well. But I'm very, very pleased that so many councilmembers said yeah, I want to go, so, good job.

>> Mayor Reed: Okay, good. Is the target date still February 10th?

>> Councilmember Pyle: February 10th and we will be coming up with another date which may accommodate councilmembers better than the 10th. Those details we have yet to work out.

>> Mayor Reed: Okay. Meeting schedules. Santa Clara Valley Water District council joint study session on flood protection. April the 29th, 1:30 to 4:30 p.m. Right here we'll host it. Our annual joint meeting.

>> Councilmember Constant: Motion to approve.

>> Mayor Reed: Motion is to approve. All in favor, opposed, none opposed, that's approved. Next item is approval to set a study session on the proposed economic strategy 2010-2015 on February 8th, 2010 in council chambers.

>> Councilmember Pyle: Motion to approve.

>> Mayor Reed: Motion is to approve. All in favor opposed, none opposed, that's approved. Taking us to the public record. Anything in the public record anyone would like to pull for discussion?

>> Councilmember Constant: Mr. Mayor, item E, the letter from the Mexican American political association I would suggest that we ask the clerk to forward that to CPLE so that they can add this to the list of organizations that should be reached out to.

>> Mayor Reed: Okay, anything else from the public record?

>> Councilmember Constant: So I'll make that motion and note and file on the rest.

>> Councilmember Pyle: Second.

>> Mayor Reed: Motion to make sure this gets communicated to the CPLE and we note and file the rest. All in favor opposed, none opposed, that's approved. Appointments to boards commissions and committees. We need to approve some appointments to the neighborhoods commission. Memo from City Manager's office.

>> Councilmember Pyle: I would move approval.

>> Councilmember Constant: Second.

>> Councilmember Chirco: Second.

>> Mayor Reed: Any comments on that? We have the James Ramsell to fill a vacancy for council district 9, Gerard Rohny to serve as a first alternate for district 9 and Jim Cantori to serve as second alternate for district 9.

>> Councilmember Constant: Motion to approve.

>> Lee Price: Can we go ahead and put that on the 22nd of January on the consent calendar?

>> Mayor Reed: If it's okay with the committee, make it so. That takes us to, item H-1 language regarding revision of council policy 32, disclosure and sharing of material facts and approving language modifying council policy 33, public records protocol and policy having to do with communications on personal devices, cell phones, computers, twitter, text messages, et cetera. This has been here before. We talked about it, sent staff out with some directions and they're now bringing it back. So take it away.

>> Lisa Herrick: Yes, good afternoon Mr. Mayor and members of the committee, Lisa Herrick city attorney's office. I wanted to -- mayor just did a good overview. Wanted to give you a little bit more in depth quickly where we've been and why we're here, the new year it's always helpful to remember sort of the steps we took. And with that -- and I'll do that briefly. Last August the council referred to this committee the question of how communications about city business made with new technology such as personal e-mail text messages, cell phones and social network Websites should be dealt with as public records. Few weeks later, the committee identified a number of issues which really boiled down to a couple of things. One is disclosure of these sorts of communications and secondly, how these sorts of communications could or should be disclosed as public records. So staff was directed to come back with a work plan to the committee, to sort of sort out how we could answer some of those questions about these two general issues. In December, and then October, that was approved by this committee. In December we came back with options on these two topics and they really boiled down to amending a couple of council policies and we had ideas generally that we could amend the council policy on disclosure of public fact and we could amend the council policy on public records to deal with production of materials that aren't necessarily on the city's servers or accessible to the city without some reference to getting the personal devices of the councilmembers or really anyone who used a personal device. So

what we've done is actually try and write these into two policies and we handed out now attachment A and attachment B. I'll start with attachment A, and that is the material facts policy which has been expanded really to include communications received during council meetings. It is a short policy, it really is. This is the complete policy. It looks like it's been completely overhauled, in reality it's just been reorganized. So all of that underlining is not necessarily new text. The real bulk of the substantive new information is this block that I highlighted in yellow down here for you and that's the definition of the communication received during the council meeting. That would be a communication received in red during a council meeting either directly or indirectly that is relevant to the matter under discussion at city council. And these communications would include, but not be limited to, just because technology is evolving so much, things like text messages, e-mails, personal communication if it's with a member of the councilmember's one of your staff. So I do want to point out that when we talked about this in December there was a concern that we were really getting to communications that went beyond those received during a council meeting. This is specific to just those communications received during a council meeting and the requirement would be that a verbal disclosure be made before the council ultimately votes on consideration of that item. So that's how this has been laid out. Some of the language here in terms of what is considered relevant and who a party is and who a participant is, is lifted at the suggestion of the committee from the political reform act and specifically government code section 83408 which deals with potential conflicts of interest with respect to contributions received from councilmembers if they sit on another government agency. So this language I think, see if you sit on another body besides the city council, because you're dealing with that all the time in analyzing what to do, whether you have a conflict as it relates to contributions that you've received. So that's the first attachment. Do you want to take questions sort of as we go?

>> Mayor Reed: Let's talk about that one first. On the definition, the material fact you say it's reorganized. But we already have an obligation under our code to disclose material facts at the appropriate time and place.

>> Lisa Herrick: That's right, under this policy. That hasn't changed. I kind of compressed it and.

>> Mayor Reed: Council meeting?

>> Lisa Herrick: Correct.

>> Mayor Reed: Although even -- we're just adding that piece to this. Councilmember Constant.

>> Councilmember Constant: Lisa, I have a question. In the highlighted section, I guess about halfway down, starts off with saying a communication could be considered relevant to a matter under consideration by council if, one, it's from a party, two from any person who actively supports or opposes any administrative or legislative decision and has a financial interest in the decision, and then is the next sentence meant to define how a -- who an actively supporting person is?

>> Lisa Herrick: It is, and that does come from that government code section that I referenced. I doctored it up a bit just to refer, of course, to our own municipal code and how we -- and the phrase that we use, which is lobbying activity rather than lobbying I think in the political reform act.

>> Councilmember Constant: I guess my question is, I can envision a lot of people that could send text messages that don't fit into either one of these definitions that you get during a council meeting but could be relevant to the discussion. For example, we're on whatever the issue of the day is, and I receive you know, ten text messages from neighborhood presidents or business association presidents who aren't lobbyists who aren't necessarily engaged in lobbying activity as we define it but they are you know actively or aggressively pushing an issue. I -- when we're up there on the dais I think it's very hard to make a determination on the fly, if person A is a person who's legally engaged in lobbying activity and person B is not. So from a practical standpoint if we're up there and we're expecting to make these disclosures, which I support the disclosure part, I'm worried about how to figure out who is actively engaged and who's not. I was just wondering if there's a reason we did that as just saying something relevant to the discussion at hand.

>> Lisa Herrick: You could make it more broad. This definitely does define a class of people that is narrower than receiving a text message from someone who doesn't have a financial interest, for example. That definitely is true and we could broaden that if we get some direction. This language was really just pulled from that code section. Excuse me. So I -- focused on that because it seemed to be the intent -- I'm sorry -- of the committee to get -- to have that particular focus.

>> Councilmember Constant: Didn't mean to get you choked up there.

>> Lisa Herrick: Battling something.

>> City Attorney Doyle: Council, if I can fill in, I think the intent that we felt came out of the conviction that somebody was either a party, item going to council or there's a financial interest, usually it's synonymous. That's number 2, it's not just that they're actively supporting but they also have a financial interest. Somebody that has a stake in it, not just the neighborhood association. We didn't want to capture the world and I don't think that was the intent.

>> Councilmember Constant: I just want to figure out from a practical standpoint how we implement this when we're up there trying to decide who is and who's not. I don't know, my colleagues have anything on that particular thing? I just wants to make sure we not end up disclosing something we should by mistake.

>> Mayor Reed: I think Nancy's solution was to turn it off then we don't have to think about it.

>> Leave it at the door.

>> Councilmember Pyle: I would gladly do that.

>> Mayor Reed: We always have to worry about make it difficult for councilmembers to understand what it is we're trying to do, especially when you're trying to make the decision on the spot. You don't have time to go consult with the City Attorney necessarily in the middle of a meeting although it does happen in the middle of the meeting sometimes. I had a related question that the definition, a communication could be considered relevant, is could be the right word there?

>> Lisa Herrick: No it is not. I looked it up and I crossed it off on my councilmember and wrote, is.

>> Mayor Reed: Coming from a lobbyist or a person with a financial interest. But not -- it's relevant fit comes to them so you might have another communication that Councilmember Constant talked about, it could be relevant but not subject to disclosure because it came from a neighborhood activist who had no financial interest in it. At some level you have to have a financial interest, that's the key to this.

>> Lisa Herrick: As written at the time.

>> Mayor Reed: As written.

>> Lisa Herrick: If you want to expand that I can do that, make an effort to do that and come back.

>> Mayor Reed: Does anybody have a question? Judy?

>> Councilmember Chirco: I have a question. I will always plead guilty to thinking simplistically. But as this is written, that's awkward, that doesn't tell me that you're defining what is a relevant communication, in the person that's make it, something like -- does that make sense, Lisa? I'm probably not getting it clear, the sentence is --

>> Lisa Herrick: I could make an effort to titan up the definition.

>> Councilmember Chirco: You might start it by saying, the definition of the relevant party. It just looks like another sentence that doesn't add meaning to your previous --

>> Councilmember Pyle: I think I would agree with that.

>> Councilmember Chirco: So please.

>> Mayor Reed: What if we went in the way that Councilmember Constant is saying and say, if you get a communication it's relevant, it's about the topic, it's relevant, it should be disclosed whether or not somebody has a financial interest or not. What does that do to the -- our obligations as councilmembers?

>> City Attorney Doyle: You know I've always tried to balance the right to petition government with, you know, those areas where you have -- or the public has a legitimate interest, knowing that there is disclosure. If somebody has a stake in the game or financial interest I think it's legitimate to ask for disclosure but if it's just neighborhood activists who are John Q or Jane Q public and they're texting you, it's probably unlikely that you'll get a lot of those but if there are it really is a policy call. I think we believe there shouldn't be disclosed or there's no need to get those, those are everyday communicates that you get before the council meeting or after the council meeting.

>> Mayor Reed: Nancy?

>> Councilmember Chirco: Well, I really agree with Rick. I think there needs to be sort of the financial self interest to define the disclosure. Otherwise, it feels like there becomes a barrier to contacting your legislative person or body. And I'm troubled by that. But I'm not, but if there's a financial self-interest in it.

>> Councilmember Pyle: Well, if there's any perception that the item under consideration would adversely affect their real estate values, you can say they have a financial interest in it. So it's very difficult to pin it all on that particular thing.

>> City Attorney Doyle: Yeah, I think what we usually look to are the FPPC definitions which are fairly well defined. In the case of real estate for example if it's within 500 feet are your property you're deemed to have a financial interest. I think those are the things we would look to. Some of the decisions you could always say affect the entire city but that's a stretch to go that far.

>> Councilmember Pyle: Two points, one is, I think we could be getting into the how many angels could sit on the head of a pin type of discussion which could go on ad nauseam, but the second one is, I would never want to encourage the public to try to communicate with us at the dais, there's plenty of time beforehand. So I actively discourage any of that. Because I'm there to do the business of the people and hopefully I've done my homework, usually I do, almost always I do. So I just really feel that rather than try to change something that we perceive to be a problem, I would rather it not become a problem in the first place. If there's some knowledge that calls will not be accepted and/or listened to from the dais that would solve a lot of -- all of this from my perspective.

>> Mayor Reed: Pete.

>> Councilmember Constant: How about question, since we're talking about definitions, disclosure means, I received a text from Joe public, or I received this text and read it off: It's a disclosure of the action or disclosure of the communication?

>> Lisa Herrick: I think the way it's written and that's something you should discuss because I've had questions about that, I think that we should clarify that. It could be, I received a communication much in the way you disclose your communications with lobbyists under lobbyists ordinance. You say before I make my comments I want to disclose that my staff met with X Y and Z. It could be a disclosure that says, I received a text from this particular fern. It's up to you whether you want to go through that particular step, to disclose what that communication is. But at this step I don't think it's contemplated.

>> Mayor Reed: Anything else on this? Pete, what do you think you want do here after this discussion?

>> Councilmember Constant: Well, I don't have any objection to Judy's comments about clarifying that the definition is a definition. I think we do it in the other parts and I think that would help reading. Because I had the same question, are we defining it here or exactly what are we doing. I think we're going in the right direction. I think even if you tell people not to do it there are people that are going to send you text messages or phone messages or you happen to be logged on your city e-mail and it will pop on and you'll see it. So I think having a policy is the way we should go. And I think I'm comfortable with that. I'd make a motion to approve this with that slight addition, that was outlined by the Vice Mayor.

>> Councilmember Pyle: I'll second.

>> Mayor Reed: Second, would that include the word change, could be considered to is?

>> Councilmember Constant: Yes.

>> Mayor Reed: Just makes it a definition. Nancy.

>> Councilmember Pyle: I don't think if this would be germane but one of the things that bothers me more than anything else and maybe it's a different discussion but we don't have the most comprehensive plan for reporting. And it depends on the length of the whole thing, and does everybody get an opportunity to say I met with such and such. We can't make it sort of like a -- going to the confessional and we all do our thing. It would seem to me that we could have something written ahead of time that could be posted somewhere and that way it would get out there. That is something that seems to me a little less complicated and a little more straightforward in getting the job done. But I don't know if that's another -- another conversation.

>> City Attorney Doyle: Well, you have disclosure requirements now, where any communications beforehand you may have to disclose to the clerk. And she has the forms. But this is really those text messages or e-mails you're receiving during the meeting. And I think it's almost what do they call that, realtime disclosure. And you can always fill out a form. But I think the idea is to disclose it before you take the vote.

>> Councilmember Constant: Personally I prefer when we just disclose it there because no one ever looks at the forms, you know. But people are watching the meeting get to see it right then. I think the only thing I could suggest and I guess it would be just a suggestion to the mayor is perhaps right before we vote just asking the question does anybody have anything to disclose? Going down the dais. Because half the time I forget. I make my comments and forget to make my disclosure. But maybe if we have anything more of a board discussion, does anybody have anything to disclose, and then get it over with.

>> Mayor Reed: If I get it right, the policy which governs us, I forget what it is, the required disclosures are lobbyists. And we do more than that but the ordinance requires the lobbyist disclosures. Either before the meeting or before the discussion, I think. And that if people have done their calendaring and the information is disclosed in the calendar, that's a prior disclosure. And then there's the form that we talked about that could be used but I think the ordinance says before the council begins deliberations. Is that if --

>> Lisa Herrick: Before taking any legislative or administrative action.

>> Mayor Reed: Before action. So it is permitted before the vote.

>> Lisa Herrick: The ordinance says may be disclosed at the meeting but the calendar disclosure is another way you can make that disclosure because that's a written form that shows that you've been contacted or met with the lobbyist, spoken on the telephone, however your calendar reflects that.

>> Mayor Reed: I can add to my repertoire to provoke the question. Because it does happen sometimes. But not always. Anything else on this? We do have a motion. Further discussion on that? All in favor opposed, none opposed, that one is done.

>> Lisa Herrick: Okay and then attachment B is an excerpt from the seven page policy on public records. And you've got page 1 of 7 and page 2. All I did was highlight how we define writing and if you flip to the back you'll see the addition which specifically includes the definition a write to also consider communications regarding official city business sent or received by the mayor, councilmembers or their staff, via personal devices not owned by the city or connected to a city computer network. And so that was an effort of -- a way to try and capture those additional communications and I'll note that this is narrower than we had discussed, I think at the beginning of the last meeting, there was some I think desire to have this go down to all city officials perhaps. But then I think there was an agreement at the end of the meeting that this would be limited to councilmembers and their staff and this would be in the nature of a pilot program as well so this is why this is written this way.

>> Mayor Reed: Okay, couple of things. In the news language, which is my sheet yellow, but underlined in the draft where it says in addition to any recorded communications regarding city official businesses et cetera, is that the recording, what about the retention? Is everything I get on my electronic devices recorded at some level and I don't know if that's a term of art. But really it's what I'm getting at is, if just like my computer at my desk, if it's not retained by the city then it's not a public record, retention is an important element. Should that say any recorded and retained communications? Center received and retained?

>> Lisa Herrick: Let me start by saying the public records act policy doesn't address retention. The determination of whether or not a public -- we have retention schedules that deal with the various categories of documents that we deem should have particular retention periods. Whether or not something is a public record really is made at the -- each employee and official's desk which is this is something important that I want to keep as a public record because it's documenting action I took or information I received. And the same determination that you make at your desktop should go for -- should follow for anything that's recorded on a private device, whether it's your home computer or a personal digital assistant. And Tom Norris can correct me if I've said something out of line with respect to retention but that typically is how I understand our analysis.

>> One way to look at it is same way we look at e-mail in our regular e-mail accounts. All of those e-mails if they're requested are subject to disclosure, almost exempt. However, there is no requirement unless they fall into certain categories defined by the retention schedules and need to be retained. If not there's no requirement to keep them. So if -- and our policy as it stands right now specifically states that we're not required to retain records in case there is a future public records request.

>> Tom Manheim: Mr. Mayor, if I could just add to that. I think sort of the simple way of thinking about it is that the reason we use the word recorder is if it exists when the request is made we would then -- then it would be subject to a determination of whether or not it was disclosable. And that's where you get into the decisions have you maintained this as a record?

>> Mayor Reed: Let me suggest then having heard that, that the addition, the language is in the wrong spot. That the addition ought to be up in the first section under records available for inspection and copying. Where we talk about the records owned used or retained by the city, regardless of the physical form and characteristics. There is where I think we ought to put the definition that talks really, in addition to those retained by the city, these others that happen to the retained by councilmembers or the mayor, their staffs on their personal devices. I think that makes it clear that we're not creating a new obligation, we're just saying, just because it's on a personal device doesn't mean it's not a public record. That's not a reason for it to be considered not a public record. And I don't know if the lawyers in the room agree that that's a better place to put it or not but it makes more sense to me there.

>> Lisa Herrick: I think that's good suggestion.

>> City Attorney Doyle: I think it is, because it can be confusing if we put it in the definition of writing. There's still a basic question of whether it's retained by the city or not. And I think that's something I think it's a good fit up above.

>> Mayor Reed: Okay, then that takes away one of any concerns about creating a new obligation to retain things outside of our existing retention policy which we spent a lot of time trying to get into formal form.

>> Mr. Mayor, if you take a look at the memo rather than the handout, the second page on the bottom of number 2 that's exactly what was proposed. However when I was putting the handouts together in my haste I put it in the wrong spot.

>> Mayor Reed: Okay. Then I also have back to that word retained. So if we put that language in that other spot, what does it mean to be recorded? Back to my question, should it be recorded and retained? Or should we replace the word recorded with retained? Because everything is at one time or another got recorded. It arrived and it was recorded.

>> City Attorney Doyle: That was the intent of the committee. If the idea is that it's only those things you actually retain, then we should be specific and not just something recorded, and then you can go back and have AT&T or somebody else resurrect it, or your I.T. staff. So I think if you wanted to have the retention issue then let's put in the retention.

>> Mayor Reed: I think we should because we're talking about all the city stuff that is retained by the city. We should be talking about all the personal device stuff that is retained as well. Because what I don't want to do ask to have to go back to AT&T and have them search through the records that they recorded somehow, somewhere, although I'm using Verizon, so AT&T probably wouldn't have anything.

>> Councilmember Constant: Good strategy.

>> Mayor Reed: Anything else on that, councilmembers?

>> Councilmember Chirco: I just have something.

>> Mayor Reed: Yeah, Vice Mayor.

>> Councilmember Chirco: I just have a question. It sounds like unless it's a public records request and we are now notified, at that point that's when those records need to be retained. So it almost seems that that might -- should be called out. But so people don't feel that when they delete things they're creating a problem. But it's once you are notified of a public records request, then you would need to disclose or retain. Because I don't see in here where they talk about, if this becomes activated by the public records request.

>> Lisa Herrick: I would definitely use the word disclosed once you get a public records act request, if you have the records and they're responsive then they would be disclosed. Beyond that I don't think there would be an obligation to re-taxi cab those unless you had some other reason to retain that particular communication if you felt something was --

>> And that is addressed in the current policy. You just don't have a copy it here. It's at the very end of the policy.

>> Councilmember Chirco: Because you're changing that, you might call that out. Because to read this without having the other one there, it raises the question.

>> Mayor Reed: Yeah, I think in the memo, or whatever, when it goes to the council, just to clarify that. Because that will be the question is all right, tell me what I've got to do is what the councilmembers are going to want to know. And I think putting that in their point to that provision is probably will be helpful. Anything else, Nancy you had a motion?

>> Councilmember Pyle: I do, right.

>> Councilmember Chirco: I'll second that.

>> Mayor Reed: We have a second to approve, that is with the modified language a little bit. All in favor opposed, none opposed, that's approved. Do we need to have this come back to the committee to look at before it goes on the council agenda or are we ready to send it on or are you ready for it to go to the council?

>> Lisa Herrick: It's really up to you. It's your decision.

>> Mayor Reed: Do we have any shiny items?

>> Tom Manheim: The next item is you approved the independent police auditor statistical reports earlier and we planned on bringing those all collectively to the council. So unless it is the committee's desire is that it come back for one more review by you, we think on technologies that we're ready to move forward.

>> Mayor Reed: Okay, but you just package it all up?

>> Tom Manheim: Yes, that's our intention.

>> Mayor Reed: Okay, we'll see if we can confuse all that with this next item. So let's then move to the recommendations for the nongovernmental bodies. First can we come up with a better term than nongovernmental bodies? You haven't yet?

>> Tom Manheim: Haven't yet.

>> Mayor Reed: Everybody knows what NGOs are now we have NGBs.

>> Tom Manheim: There was a suggestion at the task force meeting they didn't want to call it the same thing, so they came up with NGBs. Well, let me just give you some very brief history about this. This is as we were just discussing the final task force recommendation that has yet to come to the Rules Committee and then to the city council. The task force created the NGB category as a message to address concerns about all of our partners. So CBOs, private sector, public sector, whatever. As you may recall, when the original proposal came forward, we had concerns, we were hearing a number of concerns from many different of our partners. And we asked for direction to be given some more time and to go back out and meet with those partners and hear what their concerns were. We did do that, and then, when we came back to the city council, that was at the same time that there had been a couple of fairly highly visible financial issues arising with a couple ever our nonprofits. And the council had directed that the administration launch a, what we're calling the nonprofit strategic engagement platform which really was designed to work with our nonprofit partners, enhance oversight and enhance their impact of stronger financial underpinnings for those organizations. So a team of city staff was put together and they have been working on this for some time. The proposals that are coming back to you really looked -- took a second look at NGBs, nongovernmental bodies through the lens of the nonprofit strategic engagement platform. So let me just remind you what the task force recommendations were. The task force essentially created a definition of a city contractor that was -- there were two contacts. One was a contractor that operates a city facility valued at \$5 million or more. The other one was a contractor that performance a divined set of city services, those were divined by the task force and which receives at least the amount of the City Manager's contracting authority which is \$250,000. So the task force established recommendations that would be recommendations that would be applied to those NGBs, to the nongovernmental bodies, to our partners. And it would be that each of them would report oto a policy body, each of of them could be a council committee, border commission, they would produce written annual reports for those bodies and that they would also be required to produce supplemental reports any time there was a significant policy or program change. And what constituted a significant policy or program change was also defined by the task force. The administration had some concerns about that, and our concerns really went to the oversight model, by having the oversight be given to a policy body we felt like it was essentially creating a duplicative system, where you would have both the administration and the policy body doing project oversight, it would be time and resource intensive, and it's frankly counter to professional administrative practices, and it would create a significant workload, additional workload for all of the policy bodies, the committees or boards and commissions that would be hearing these reports annually as well as any of the supplemental reports. In the for-profit arena the concern was that it could in fact reduce competition for contracts which could scare away bidders and therefore increase the cost of the services that would be provided through those contracts. So if we think about the task force recommendation, it essentially created four categories of entities. Nonprofits that received at least \$250,000, nonprofits that operate a facility and then for-profits in each of those areas. The task force proposal created identical requirements for each four of those categories yet they each have different characteristics and we have different models for oversight. And that was really I think at the heart of the change in the recommendations that are before you. The recommendation that we're bringing forward really are trying to accomplish two goals. One was, to recognize the existing oversight mechanisms we think are effective and then also, rather than placing the reporting obligations on the partners, to really place most of the obligations on the city because our partners, one of the things we're hearing is that the partners are stressed and dealing oftentimes with even more limited resources than we have. With that, let me go through the requirements for each of the categories. For the nonprofits receiving \$250,000, we first wanted to clearly define what that would mean, if they were receiving \$250,000. And so it was defined as financial assistance which could be a grant, a financial award provided to support an approved project or activity to implement a public purpose. And one example of that might be for instance, we have nonprofits that are given money to help market the city. Those would be captured. Leases at below market rates would be captured. Or payments for operations and maintenance would be captured. And you have in your report a list of all the nonprofits that would act -- the 30 nonprofits that would be captured by these requirements. The requirements, as I talk about them, I'll talk about them both from the

city perspective and what the outside partner would be required to do. The city would conduct an annual financial scan of each of these and the first year that would be done by the City Auditor. These are all -- these requirements are directly consistent with what the nonprofit strategic platform group is working on. That scan would be reported to the placed finance and strategic support committee. If a corrective action was necessary that would be developed by staff and there would be monthly meetings of the platform committee to maintain our sort of grip on what was going on with all of the entities. The requirements for nonprofits would be limited to them essentially cooperating with us to provide information that the -- that's necessary for the financial scan. And if a corrective action plan were necessary, to cooperate in terms of implementing that plan. And then to post their financial reports on their website, which in fact is something that I believe all nonprofits are required to do now. The second category I want to talk about again is nonprofits that operate facilities and our recommendation is simply to maintain the existing oversight mechanism which really includes regular facility inspections, corrective action plan where there is something physical plant correction that needs to be made, to post those facility maintenance reports on the Website and then again, if there were any significant maintenance deficiencies, to report those to the public safety, finance and strategic support committee. That brings us to for-profits, and the recommendation for our for-profits is to maintain our existing administrative oversight mechanism. As we looked at them, what we determined is that from the private sector, our contracting process is a little bit different. We have much stricter performance measures that are in all of these contracts. There are clearly defined maintenance obligations, when it is a facility and more importantly there are defined remedies including liquidated damages and the ability to revoke contracts any time there are problems. And so we feel like we have very strong maintenance in this area, and frankly most of these are garbage contracts, our parking operators, and some pavement resurfacing or street resurfacing contractors. So that is our recommendation, and with that I will turn it back to you. We're happy to answer any questions you have and I just note, I know that there are representatives from some of the different departments here to help answer question, and I know that there was a letter distributed from the Silicon Valley council of nonprofits and I believe there's a representative here from them as well as Bob Brownstein who I assume is here from the task force, representing the task force.

>> Mayor Reed: Okay, I have a couple of requests to speak and I will start with Bob from the task force, I think he's the only task force person who is here, if he's got anything to add before we take the testimony.

>> Bob Brownstein: Thank you, mayor Reed. Consider the financial situation the city is in and the need to try and limit any additional resources for virtually anything during this period I'd be hesitant to suggest any expansion beyond what staff is proposing. However, I would just observe that what staff is suggesting is a mechanism to deal with purely financial oversight, particularly focused at data from financial audits that indicates an organization is in some kind of significant financial difficulty. That is certainly important and we want to know that. But what the sunshine task force was interested in was having transparency on the operational decisions that were made. That is, if an entity is receiving a substantial amount of public funds and decides that it wants to spend them in a different way, so that different parts of the city or different constituencies receive different levels of service or whole new level of service that people may or may not be comfortable with, that that would be known, that there would be a body that would have the chance to look at that kind of decision and -- a representative body so that the public could be part of that decision and have a chance to know about it and comment. Now, this mechanism that's before you today doesn't get there and like I said we've got some serious problems to work out in terms of scarce resources in the city. And this is probably not the time to try and get there. But it is an area of openness that we won't have achieved by this mechanism, and there may be a time hopefully that will be a time when things are better when we could take another look at that.

>> Mayor Reed: Okay, thank you, Bob. Amanda baker and then David Wall.

>> Good afternoon, my name's Amanda Baker. I'm from the Silicon Valley council of nonprofits. I first just want to say that the Council supports the intent of the memo, but there are a few questions and recommendations that we would like you to consider forwarding this to the full council. The first things is that on one of the slides it said the recommendation was to recognize existing oversight mechanisms. The memo that was attached to the agenda it does not recognize the RFP and RFQ processes that the nonprofits go through. We would like for there to be, I don't know if you would call it the addendum, add to the memo, the RFP and RFQ requirements. Said to go to the public safety, finance and strategic support committee. Most of the nonprofits that are included in this portion, their program oversight is done in the neighborhood services and education committee. So we think that the financial

scan should also go to the neighborhood services and education committee so that oversight of programs and finance could be in the are same committee instead of separating them into two. Thank you.

>> Mayor Reed: Thank you. Mr. Wall.

>> David Wall: First would I like to say that any public -- first I would like to say that public money, not just the contract we're talking about today, third party beneficiaries, that don't really receive the money but receive a benefit, those records should also be disclosed. Let's look at something, the issue of direct benefit and indirect benefit. When you have a corporate principal or agent, which is on the Sunshine Reform Task Force, who confers a benefit to the corporation, because of his activities, such as the case of Mr. Robinson with San José Mercury News, he did his job on the task force in relation to the San José police in reference to the mischaracterization of the drunk in public issue, the Daniel Pham case, the Mercury News made in excess of \$250,000 which in theory, means all their records containing everything in their newspaper is then a public record. Which is interesting because it would go directly to the journalistic privilege. So you might think twice about having San José Mercury News on any task force. Because I assert that they then conferred a benefit in the millions. And that, boy, all public records that they use, whatever in their newspaper, unless they can prove definitively their funding source came from something else, cough it up. Thank you.

>> Mayor Reed: Anybody else from the public want to comment on this before we discuss it? Okay. Bring it back here for some discussion. One question I had, has to do with the profit. For -- profit entities and the contracts. We have a lot of oversight for some of them, that I'm very familiar with. How much of that oversight is of public record? How much of it is available if somebody wants to see it? So while staff may be all over one of these contracts, monitoring it, what is available to the public to see how well that job is being done?

>> City Attorney Doyle: Well, everything right now under the public records act, everything we receive, so if we audit or we receive audits, we receive statements, we receive whatever in terms of administration, it's a public record unless it falls within a very limited range of exception hes. And the primary one is a proprietary exception. You start off with the presumption that everything turned over to the city is a public record.

>> Mayor Reed: So if somebody were to look at that time Hayes mansion and to see that we're putting \$6 million a year into it, \$4 million last year, want to know what kind of oversight are you doing, give us the oversight documents for the Hayes mansion they would be able to get it under the public records act request?

>> City Attorney Doyle: Yes, that's correct.

>> Mayor Reed: And I presume the same thing with all of the other for-profit contracts, the golf course as well as the paving contract and those things as well?

>> City Attorney Doyle: Yes.

>> Mayor Reed: So if they're giving us reports and our staff is doing the monitoring, whatever is coming in they have access to documents, except the proprietary stuff, would be public records? Any other questions on this one?

>> Councilmember Pyle: Move to approve.

>> Mayor Reed: Pete's got a question first.

>> Councilmember Pyle: Oh, Pete's got a question.

>> Councilmember Constant: Just trying to understand some of the nuances between managing a facility or leasing a facility like we have the San José rep, which falls in one category. They work out and operate a city facility. And then we have San José stage company who is listed as a tenant only and does not operate the facility. What is that nuance between operating your business in a facility and operating a facility?

>> Tom Manheim: The nuance is whether or not the entity that's in the building has responsibility for the actual maintenance. What example I can give you is that the Catholic charities is in a facility, operating out of that facility. However, our general services group is responsible for maintenance of that facility. So it's who actually has that responsibility contractually.

>> Councilmember Constant: Okay. So going beyond just a tenant responsibility, is really where you get into that operating?

>> Tom Manheim: Yes.

>> Councilmember Constant: Now, how do we -- I guess if somebody's a tenant and they're paying full market value or what was market value at the time they sign their lease, that -- they wouldn't be on the

list. But if they receive -- or they are a tenant in a building that's below market value and the value of that below market value triggers the 250, is that --

>> Tom Manheim: If we're -- if we are giving them a -- if they have a -- let's say somebody has a lease for a dollar a year and I don't know who that might be. I don't have them off the top of my head. Some nonprofit says, you can use this facility that we own and it's \$1 a year. If you were to go out on the market and the value of that would be \$300,000 a year, so that difference \$299,999 would be in essence the amount we would look at that would put them over the 250.

>> Councilmember Constant: And then if we look at groups like, removed from the list is PAL, police athletic league, it says it's managed by the city. I'm on the board of pal. There is a lot of things they do that really is not managed by the city. I'm just trying to figure out where do we -- where again is that line?

>> Tom Manheim: The facility as I understand it -- the facility itself is managed and maintained by the city. I think the activities that occur in there are what you are talking about?

>> Councilmember Constant: Yeah, well, it's kind of the activities and, quite frankly, the funding. Because we have a lot of city employees that work 100% of their time on pal. If you were to calculate what the city invests in pal, I'm not saying it's not a good investment --

>> Tom Manheim: Right.

>> Councilmember Constant: I'm sure it's over \$250,000, yet it is not included in our list.

>> Tom Manheim: That's correct, we did not include sort of what I would call the in-kind support of staff assigned that the city pays that are assigned to a facility.

>> Councilmember Constant: Okay. Do we have other groups like that? Have we really looked to see?

>> Tom Manheim: I don't know honestly. I'm not aware of any. I don't know if -- Jeff ruster can --

>> Mayor Reed: Christmas in the park.

>> Jeff ruster, deputy director. There are some groups that we give them, sometimes support or materials. The value we're trying to quantify at the time. Through grants for services direct contractual relationship or actually giving them operation and maintenance funding to the operation and maintenance of the building, using Tom's example, the subsidy, value of services we're giving them compared to market rate. Right now we are not including in-kind subsidies. We're trying to get an assessment of what that really is.

>> Mayor Reed: Let me ask a more general question. If we were to approve this would this capture all of the bad experiences we've had over the last few years with some sort of an early report, either in the financial scan or the regular reporting? Because I know we've had some bad experiences, and that we've done a lot of things to try to ensure they don't happen again. But do we have any gaps here that aren't readily apparent? So for the Mexican heritage plaza, History San Jose, north side and resource for families and communities, and couple others that I can remember where we found out about it way late in their process, and it seems to me that we would capture all that much earlier with the financial scan that Jeff's working on and things like that.

>> Tom Manheim: I don't know fringes on Northside what their level of financial support but assuming it was over \$250,000 which I believe it was, yes, we would have captured them. We -- yeah, I believe this does -- I don't know of any gaps. I mean I think the strategic platform group has done a very good job of looking at this and trying to identify all of the criteria that would capture entities that would be a concern.

>> Mayor Reed: Another question is on the letter of the Silicon Valley council of nonprofits, it's not a bullet, it's number 1 asks for that we include in the memorandum the oversight of the RFP RFQ process that some of our nonprofits go through and at least acknowledge that in there in some fashion which I think would be useful.

>> Tom Manheim: Yes and I actually spoke with Patricia Gardner yesterday and told her that we would do that and also reassured her that the absence of that language wasn't trying to suggest anything about the nonprofits.

>> Mayor Reed: And then another question is about the committee assignments. And since there's so many of these I'm not sure that they all should go to the Public Safety and finance committee. And maybe we should, as they come through and get ready for review, we just have -- come through the Rules Committee process and we'll add them to a work plan for the appropriate committee.

>> Tom Manheim: If I could just correct one thing for the record. There are a variety of these, and they are not all related to neighborhood services. Eight of these are led by PRNS. I'll just go through the lead departments. Eight are under the lead of PRNS, 12 under housing. Seven under economic development, and OCA has four of those seven. One in D.O.T. one in general service and one at the agency. I think staff's thinking in terms of centralizing it through the public safety finance and strategic support was that

the administrative oversight of contracts and ensuring that facilities are maintained really falls within the responsibilities of that committee. And our thinking is having one committee assigned to it, there would become a familiarity with the issues that come up that might actually make it more efficient both for the partners as well as for staff working with the committee on these issues. It certainly, we're here to take direction. However if you would like to suggest a different approach.

>> Mayor Reed: I think Jeff wanted to add something to that.

>> Just one quick clarification with what Tom just said. Really in vision of the financial scan, it would be one report that would come back on the 30 organizations that are listed here. That list will obviously change as funding obligations will change from year to year. Staff would bring back a semi annual update in terms of those that were identified at risk and the progress under corrective action plans that would also be brought back to the same committee.

>> Tom Manheim: So just if I could clarify, it's a single report capturing all of the entities?

>> That's correct.

>> Mayor Reed: So if you get a single report it may be that there are some program issues that come up as part of that report. Those could then go to the appropriate committee that deal with the program issues.

>> Tom Manheim: Certainly. We can add something that indicates sort of any referrals from any issues that arise out of that scan could be referred to the appropriate committee.

>> Mayor Reed: Be one way to do it. Pete.

>> Councilmember Constant: Two comments. The first on the committees. I do think that the public safety finance strategic support committee is the right committee because that committee sees a lot of similar data. All the redevelopment agency financial statements all the audits the Team San José audits all those things from the financial perspective and I think keeping the operations and the financials separate are actually or the programs and the financials separate is actually a good thing except when there's overlap and if there's something to be referred to committee. I think it helps to committee to develop an expertise and have a focus in that financial area and I think TTYs appropriate place. I did want to go back to my first or my previous questions about these removed from the list. I think we have the downtown association, BID PBID all these little acronyms here that are removed. But we also have like the downtown association has the lease at 88 south first right here in the garage that's a fairly large subsidized lease, I don't know the exact dollar amount but I got to imagine it's huge. Yeah, I don't know what the market value is but I know the rent we get isn't. So again I'm not sure why they would be removed when it's a significant subsidy.

>> Tom Manheim: If I could clarify. They are actually included, as if you go to number 23 on the first page of the chart there.

>> Councilmember Constant: Okay, I missed that. So we're talking just the bid, PBID, HBID, those are --

>> Tom Manheim: Right, exactly.

>> Mayor Reed: Vice Mayor? You were done Pete?

>> Councilmember Constant: I think so.

>> Mayor Reed: Judy.

>> Councilmember Chirco: On the financial scan would you be looking at their financial statements or is this data they could pull at any time?

>> Tom Manheim: I'd like to refer that to Jeff who's really leading that effort.

>> We would rely on their audited financial statements. We would go back three years, the first year at least the year we'll be doing it now the report will be generated in the March April time frame. Upon that review, I'd ask Sharon to come and embellish if need be, you do your analysis on the financial statements, if it's warranted additional information could be requested at that time.

>> Councilmember Chirco: My thought was do they all have the same fiscal year?

>> No, they don't. Some end in July some in December so we are going to deal with the most recent audited financial statements, and sometimes there will be gaps of six months or so.

>> Councilmember Chirco: I just you know -- now you say there's going to be one report with all of these agencies on it? Because I know when Tom went over them there were a number in community and economic development there were a number really that related to neighborhood services and obviously some that were strictly more financial. But it would be one report that would go to the Public Safety and finance committee?

>> Right, I think again, I'd invite Sharon to come up and talk a little bit more about it. The report related two pieces to it. It would look at the 30 organizations and identify trends in terms of the financial health of our nonprofit community and our strategic partners and then would provide a quick summary of the financial analysis of each organization.

>> Councilmember Chirco: And then one last question. Has to do with you say the last audited fiscal some of them could end their fiscal year December 31st some of them could end say June 30th so you would be dealing with fiscal reports that could well be you know six to nine months old. And how reflective would that be of the current status?

>> And again depending on the particularly situation of the nonprofit what we would do if there's a reason to look at kind of board approved or finance committee approved by the nonprofits we would use that to supplement our analysis. But we wouldn't have audited financial statements obviously to cover that gap.

>> Councilmember Chirco: Which brings up one more question. I think one of the problems we found is, a lot of the boards weren't well educated, and served on many boards, I would plead guilty, on financial statements and kind of the accountability component of the financial statement. So my question is, it has to do with as current data as possible, and the ability for an organization to maybe get into trouble say in six to nine months anyway.

>> That's correct. And I think what you would say, based on the financial analysis if warranted a corrective action plan would be put in place working with the nonprofits. We have other tools we are bringing to bear as well, we're actually going to be doing a presentation to city council next Tuesday talking about all the components of the platform which includes looking at issues and work with the nonprofits to improve their fiscal control, issues of governance, funding diversification so we'll talk more about that at city council but it is an issue that needs to be addressed and if it's warranted we need to have corrective action to make sure the boards are educated and that they are tracking there kind of information appropriately.

>> Councilmember Chirco: And maybe Sharon could address the fiscal.

>> Sharon Erickson: Actually, we got involved after our last year's audit of community based organizations where we recommended this annual financial scan and it's primarily that we can comment that the city is on top of and has reviewed these financial statements. In talking with staff, our motivation was to make sure we're not duplicating efforts. My staff is qualified to review those efforts and can do it easily allowing program staff who are actually monitoring the agreements and the grants with these organizations to focus more on the actual programmatic elements so we would do a financial scan, it's very brief like has been said it would just be a couple of pages on each organization. Just the highlights of the trends of some -- some key financial indicators.

>> Councilmember Chirco: And then another question, goes back to what tom said about the different categories that these programs fall under. Being on like the neighborhood services committee, I would appreciate knowing that the organizations that are delivering community based services are fiscally sound as well as program sound. So my question is, take your annual report but them to come to the committees that are the oversight for that, whatever number of programs, and just give them a fiscal report on how are those programs -- how are they doing? And are they going to be able to continue? It's just as the committee that oversees their programs, I think there's a concern that they be fiscally sound and we be able to continue those services.

>> Sharon Erickson: If I could just say from my perspective once we put out a report it's no problem to present it to two committees.

>> Councilmember Chirco: And that's what I'm thinking et cetera just, it would obviously come to the council but I think getting that staff briefing on those particular programs that fall under Community and Economic Development, neighborhood services,.

>> Mayor Reed: T&E.

>> Councilmember Chirco: Yes, transportation and environment. I think it's kind of that double oversight and people on those committees have a special interest in those nonprofits or contracts.

>> Just echo Sharon's points. I want to make sure it's clear the departments and really through the engagement platform are regularly overseeing the programs both from a program and fiscal standpoint. What we're saying the annual process of the fiscal scan scan. .

>> Councilmember Chirco: Personal interest I've been on the council seven years and have worked with these community organizations for all seven years. And I have as do my fellow colleagues a lot of investment in the areas we've worked on and so I absolutely support you know taking the complete report

for the acceptance but just the briefing at the various committees on the organizations that are supporting the work that the committees oversee. So if it's possible I'd like to include that there be a report out. As Sharon said it wouldn't create a difficulty to the various committees on the organizations that fall under each of those categories, the committee categories.

>> Tom Manheim: If I could just to -- if I heard you correctly I wonder if the answer might be that we discuss Councilmember Constant's concern about which -- pardon me I guess it was the mayor's concern about make sure that any issues that arise out of the financial scan could then be referred by Public Safety finance strategic support to the appropriate committee. I wonder if that isn't the mechanism for ensuring that the other committees get a report when there are financial concerns. Would that address your concern?

>> Councilmember Chirco: That might do it. I think this is a new process, I haven't seen it rolled out yet. We could try that. And then I can express my opinion.

>> Tom Manheim: Okay.

>> Councilmember Chirco: But I just know how I feel about the various organizations that work in the field that I've worked in for the last seven years and Councilmember Constant and Pyle, those are important issues to the council, all of the council.

>> Mayor Reed: I think with the financial scan comes into the public safety and finance committee and then before anything goes on to the council for final action if there are program issues we go through the appropriate program committee to do that and whether it's you know one or eight essentially assist staff and others, if there's nothing further to talk about it wouldn't necessarily have to go on.

>> Councilmember Chirco: Part of the question is I know there was an organization in the HNVF and they had to discontinue a program. And it is a program that's vital to the continuum of services that are funded under HNVF. That's the kind of thing that I think is really important to the committee. Now that happens to be HNVF and I happen to be on that so I would be aware of it but that might not always be true.

>> Mayor Reed: But I don't think there's any difficulty created if we -- it goes to finance first and then on to the subject matter committee. Paul.

>> Paul Krutko: Mayor Paul Krutko chief development officer. Just one mechanical suggestion would be that if it goes to the committee, that it's a standing referral to the other committee. Think about the mechanics here, that we would have to come to Rules, get it agendized on the work plan because you approve the work plan ahead. So if we would say those reports would automatically go, create some rule that does that and we wouldn't have to come back to Rules to change the agenda. I know the committee that we work with Councilmember Pyle on, what we've done with this year's plan is leave room on the agenda for those types of items that we want predetermine are going to be on the agenda. So I would just suggest as an automatic referral, save these steps of staff.

>> Councilmember Chirco: I think that's a great idea Paul. We've done it on NS and E, neighborhood services and.

>> Mayor Reed: I think that would solve the problem we're worried on. Anything else on that?

>> Councilmember Constant: One last statement. I would really like staff to give a kind of cursory look on where we may have full time staff assigned to any of these organizations or other organizations that may not be on our list here. And kind of look at the overall value. And I'm really looking at situations like pal where there's a significant city investment in that organization. I just want to make sure we're not missing any.

>> Mayor Reed: Well I know from the civilianization audit, there are quite a bit of civilians that work on pal. It's certainly more than \$250,000 of value every year and there may be others. I think that's a good thing to chase down. Anything else? We have a motion to approve I believe.

>> Councilmember Chirco: May I have a second?

>> Second.

>> Mayor Reed: All in favor opposed, none opposed. Tom.

>> Tom Manheim: Just for clarification, that does include the referral system that we were talking about, the motion?

>> Mayor Reed: Yes.

>> Tom Manheim: I would just note, this could be historic, maybe we've finished the Sunshine Reform Task Force items that need to come to Rules.

>> Mayor Reed: The last? It's good to have the last one done. Let's see if there's anything else on our agenda. I think we're down to open forum. Correct? We're. Open forum. Mr. Wall.

>> David Wall: I was at my third home away from home today and I didn't count correctly so I could get chastised but I just delivered six items from the Santa Clara Valley Water District that has import to the city. A specific import for the committee for economic development which I will talk about later. But for manufacturing process, what I wanted to talk about today was, the San José Silicon Valley chamber of commerce should be looked at as a financial entity to help the city insofar as a lot of these things like the downtown business association, Office of Economic Development have overlapping and redundant systems. And if you just had a direct contract with the chamber of commerce, they represent the city pretty well. I think they're doing very well in what they do and that's under the guise of an alternative service delivery model. Lastly, I want to talk about sustainable agriculture. If sustainable agriculture was in Haiti, for example, those folks down there wouldn't be starving, they'd survive. Lastly, it's nice to give your heart to any kind of cause, I'm saying do not. But if you're going to make special attention on your Websites for catastrophic disaster which you should, remember the catastrophic things that happened in the downtown in our own nation, in our own city. Now, I don't see any of you except for Your Honor, Councilmember Constant, has ever been on the river where I walked, or down -- or on the railroad tracks where I walk. And it's a catastrophe for those folks and those are citizens of the United States and they're residents of the City of San José.

>> Mayor Reed: Sorry, your time is up. That concludes the open forum. That concludes our meeting. We're adjourned.