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## Annotated Agenda

**I. Call to Order & Orders of the Day**

**II. Consent Calendar**

A. Approve Charter Review Commission Minutes of May 17th, 2021

B. Acknowledge any letters from public

**C. Vote on Consent Calendar**

1. Motion initiated by Commissioner Tran; seconded by Commissioner Marshman

**D. Public input**

1. Commissioner Matsumura - Got a message from a member of the public saying he's unable to get in using a link from the city website.

III. Reports & Information- N/A

IV. Public Hearing - N/A

**V. Old Business**

**A. Discussion and possible action on work plan**

**1. Report from the Chair**

a) Moving past study session phase into next phase with two main focuses:

(1) efficiency (through subcommittees)

(2) public engagement to meet the aggressive December deadline with a Majority & Minority report

b) Reminder moving future meetings to 5:30pm

~~2. Report from the Clerk~~

~~a) Toni details on public hearings and return to in-person meetings~~

b) City Attorney - Brown Act update

(1) **City Attorney:** Memo submitted to the Commission for review under New Business.

**3. Update from Consultant on revised timeline for public hearings and subcommittee recommendations deadlines**

a) Public Hearing Timing: (see latest work plan)

(1) First public hearing is confirmed for June 28th

(2) Second hearing is confirmed for July 29th

(3) For second hearing we'll need any recommendation memos ready for review by July 23rd

(4) The Commission will review recommendations for Public Hearing 2 on July 26th.

**4. Questions from Commissioners:**

- a) **Commissioner Fuentes:** To what extent is our community engagement process going to encourage people to attend Commission meetings
  - (1) **Chair:** We've left it up to CBOs to determine the most effective forms of outreach depending on their communities. I think we'll see a wide variety of types of engagement. We did have a number of Neighborhood Associations apply and we will share outreach materials with them. We want to make sure we're working with organizations who can reach harder to reach populations.
- b) **Commissioner Amador:** Acknowledges that she is present.

**B. Public Comment:** None

**C. Update on community engagement and preparation for first Public Hearing - discussion and possible action**

**1. Update from Consultant on draft outreach materials and plan for public hearing**

- a) Update on CBOs
  - (1) Selected organizations
    - (a) Healing Grove Health Center -- Program: Madre-A-Madre
    - (b) LGBTQ Wellness (Caminar)
    - (c) Latinos United for a New America
    - (d) Amigos de Guadalupe Center for Justice and Empowerment
    - (e) Plata Arroyo Neighborhood Association and Eastgate N.A.C.
    - (f) Friends of Hue Foundation
    - (g) Vietnamese Voluntary Foundation
    - (h) African American Community Services Agency
    - (i) YouthHype
  - (2) Kickoff meeting and process for revising / translating materials
  - (3) Timeline - materials out the door this week
- b) Review of draft materials
  - (1) Deck
  - (2) Basic Flyer
  - (3) Comparison Flyer
  - (4) Social Media Graphic
- c) Will be compiling these draft materials into an outreach toolkit:
  - (1) Will share with Community Organization partners and other community partners

- (2) Request for Commissioners to share outreach materials
  - (a) Community reach out to secretary
- (3) Commissioners being requested to give presentations to community partners?
- d) Public Hearings
  - (1) Outcome of first public hearing is to add additional potential topics for subcommittee consideration, then finalize subcommittee structure/topics
  - (2) Future hearings will ask for input on recommendations
    - (a) Q: will we be identifying questions we want the public asked relative to each subcommittee?
  - (3) Hearing process:
    - (a) Give presentation (basic outreach presentation for first hearing)
    - (b) Listen
    - (c) For first hearing: Commissioners discuss what they heard and refer to proper subcommittee
  - (4) Preparing for the public hearing:
    - (a) The main intention of this first hearing is to gather and listen to ideas and issues from the community.
    - (b) Looking for Commissioners to volunteer to give that first presentation - which will be translated and have interpretations

## **2. Commissioner discussion**

### **a) Feedback on materials**

- (1) **Commissioner Callender:** Looking for the list of CBOs; noticing that we don't have anyone who does general Asian outreach (Asian Law Alliance).
  - (a) **Consultant:** We can make additions to the list
  - (b) **Commissioner Callender:** I don't see Sacred Heart on the list.
  - (c) **Consultant:** We followed up with Matt King and they were not interested in working together.
- (2) **Commissioner Fuentes:** Want to make sure that we really encourage people to come to Commission meetings and specifically share how they can do that (instructions etc). I want to stress that we should be engaging the community to continue to work with us. The public hearings will be great for informing what the subcommittee meetings focus on but we're also going to have the big decision-making meetings where I would like to see members of the public come and share their

input. I want to understand both your expectations and broaden their job scope to include bringing communities to the Commission meetings as well.

- (3) **Commissioner Tran:** Considering we don't yet know the proposals from the subcommittees - I'm assuming we will be translating memos and recommendation materials ahead of the public hearings.
  - (a) **Consultant:** Yes there will be a need for subcommittee members to present these recommendations to frame the requests for feedback from the public.
- (4) **Commissioner Posadas:** Regarding community engagement - we have on our outreach list the suggestion to exist the existing Commissions and Boards (I hope we find some way to connect and partner with them so that they can share this information with their contacts); Suggests having information available at city booth for the city-wide public events that are reactivating after COVID.
- (5) **Commissioner Matsumura:** Flip the order and start with how this affects you - because it would be helpful to draw people in. Could we give examples of other Charter Commissions (1985 one, Detroit ones) so people have concrete examples of what the results could be.
  - (a) Hoping that both the flyers and comms materials will evolve as we get more details. Right now it feels pretty abstract but hopefully we can get more specific as the Charter evolves
  - (b) I don't know if the CBO staff has professional communicators - but maybe going forward working with folks who have communications backgrounds, it could be helpful.
- (6) **Commissioner Segol:** After giving the choices, could we actually put what currently is the case (what's happening now, as it's happening in San Jose); Can we specify the "department heads" and staff
- (7) **Vice Chair Johnson:** Would be helpful to give people more context about the subcommittees in the presentation. Would be helpful to contextualize the questions (ex: The policing one would go to the policing subcommittee)

- (a) **Consultant:** This is a first pass and we can put out more specific outreach materials when we get close to the topical hearings. Would appreciate any other specific examples we can share.
- (b) **Chair Ferrer:** This was the most difficult area because we were trying to be specific while not being biased
- (8) **Commissioner Monley:** Are we able to use these draft materials or should we wait?
  - (a) **Consultant:** Don't use these until they are finalized and translated. Want to ensure we're not overwhelming folks with asks. That's why we want to create a communications pipeline by asking people to sign up for public hearing updates. We need you to be involved in this distribution process.

**D. Public Comment**

- 1. **Matt King:** I would love to hear more detail about ; Sounds like organizations were being asked to itemize their costs which leaves the possibility of CBOs being ; The slides did not strike me as unbiased (the slide about the Housing/Construction not working fast enough - comes across as "the way we do it now is bad, do you want to give the Mayor powers to
- 2. **Ellina Yin:** Echo Matt King; From viewing the presentation I feel like a lot of the slides are biased towards changing our form of government rather than talking about what is broken and what needs to be improved. I see a direct bias as there is now. I would also like to see more of a detailed breakdown of how the budget will be allocated for CBOs. I don't feel like itemization will help them reach their goals - this feels like just another added barrier. For more transparency I feel like we don't have a lot of time to comment on the presentation. I want to see the list. There should be more discussion about subcommittees being open - getting the materials on a Friday doesn't give us much time to get oriented.

**VI. New Business**

**A. Subcommittee Reports - discussion and possible action**

**1. Update from Consultant**

- a) This new agenda item will likely become the bulk of our Commission meetings to facilitate the exchange of information.
- b) Each subcommittee has met and shared notes
- c) Documents:

- (1) Shared Google Drive
- (2) Compiling references/resources that have come up so far to share with subcommittees
- d) Questions that have arisen:
  - (1) Sourcing topics and public input -
    - (a) City Clerk will forward ideas to appropriate subcommittees. Share additional topics tonight. NOW IS THE TIME. After first public hearing we will assign topics to subcommittees and make adjustments as necessary:
      - (i) How should subcommittees source ideas on topics related to Policing & Municipal Law, how can this subcommittee go about sourcing ideas from the larger Commission?
      - (ii) How should subcommittees expect to receive public comment from the City Clerk's office?
    - (b) Commissioners can recommend topics but remember we have deadlines for recommendations. NOW IS THE TIME.
      - (i) Commissioners had specific topic recommendations but wanted to hold off sharing them until the structure of the subcommittee was finalized.
  - (2) Changing subcommittees - put together subcommittees based on your preferences
    - (a) May 3rd - presented first pass of subcommittee structure and assignments
    - (b) May 17th - presented revision and asked for additional feedback during meeting
  - (3) Supporting documentation requests - Send email to City Clerk and Consultation
    - (a) How should requests for supporting documentation be processed (ex: Commissioner Segura's request for the Detroit Charter Bill of Rights), should those be met by the City Clerk's office or the CivicMakers team?
  - (4) Research requests
    - (a) Process for handing research requests
    - (b) Funding is available upon request

(c) Subcommittees should send request to City Clerk and cc Chair and Consultant include the following details:

- (i) Topic
- (ii) Existing research conducted
- (iii) Specific specialties

e) First opportunity to discuss overlap between subcommittees

## **2. Commissioner discussion**

a) Questions from Commissioners:

(1) **Commissioner Posadas:** Would it be appropriate to talk about the memo from City Attorney Vanni here or later?

(a) **Consultant:** Yes let's talk about it now

(2) **Commissioner Posadas:** Referencing the paragraph: "If the Commission desires public participation had an ad hoc committee meeting then the requirements of the Brown Act and City Sunshine Resolution should be followed." If we as a subcommittee wanted to invite a guest speaker does that trigger the Brown Act & City Sunshine?

(a) **City Attorney:** Not necessarily, if the guest speaker is just present at that ad hoc subcommittee that would just be an individual contact between members of that subcommittee and the speaker. The speaker should be advised not to discuss with any other commissioners the ideas and positions of that subcommittee.

(3) **Commissioner Marshman:** Shares sentiment around not knowing where to dive in. Feels like they're getting to a time when they need to triage some topics and decide which they're able to pursue and research enough to make a policy recommendation by November and which are too vast or not relevant enough to continue researching.

(4) **Commissioner Percival:** I share similar concerns - I'm also serving on a Commission for San José State where I've been working on the Policing issue for 11 months and we still have a ways to go. Even asking the right questions takes significant time. Subcommittees might benefit from wading into the topics - seeing what questions we can ask ourselves and might signal that some of these topics are way too big of a topic to address in the amount of time we have.

- (5) **Commissioner Fuentes:** I'm concerned we are feeling the pressure of the deadline and I know part of the process has to do with putting it on the ballot but how can we get to the point where we discuss whether to ask for more time. This is such a critical Commission for the City and the future. Can we explore asking for more time? Can we do something like have an interim report with interim recommendations so that other critical questions for our city can be explored?
- (6) **Commissioner Marshman:** I think that's a really good point. Regarding the time issue. Some of the things we're looking at are very interesting but I don't think there's a way to develop expertise enough to develop recommendations for voters and reconcile them with other Commissioner recommendations. When I was asked to service this Commission I was told it would be a relatively narrow focus - because it had to fit into the scope of a year. I'm wondering if we can agree on a scope based on the initial request and develop follow up recommendations. Develop recommendations on a few points by November and then make a list of things we've found very valid to consider further.
- (7) **Consultant:** Another way to look at this is to have a Charter Commission that creates a regular review of the Charter. This becomes another strategy to extend the opportunity for community input on future
- (8) **Commissioner Amador:** Want to really emphasize what Commissioner Fuentes and Marshman said about having more time. Especially as I'm trying to reach out to community organizations who are also organizing out in the community and are very active. It's hard to get them knowing that we have a timeline and they have things to do.
- (9) **Commissioner Tran:** Strongly agree on the timing. I believe the only time sensitive issue is the timing of the Mayoral election and whether or not to extend the current Mayor's time. Perhaps we can bifurcate that issue and take more time to be thorough about other issues.
- (10) **Commissioner Callender:** In 1998 There was a SJ firefighter who killed a black man. At that time the black community started calling for Charter changes - we waited a quarter of a century to try and make changes.



It's worth trying to get how long we can get in the time we have; I don't want to walk around my community and say we didn't try. My community has been begging for this change, we've waited long enough. At least we try to do it before we quit.

- (11) **Commissioner LeZotte:** Back to Commissioner Marshman's comment about triaging the topic list. In particular the election of a police chief and a city attorney. The Governance commission is looking at moving around the power of the Mayor and City Manager. If we're going to be making suggestions to give to the Council or Mayor about more power with regard to hiring and firing council-appointed individuals then maybe the issue about whether it should be an elected position should be in the Governance committee. -- There's a conflict there. Then with regard to "mission creep" I wonder if there's going to be a time to decide on filtering some of the things we're looking at through the lens of what we were asked to do initially. We have to make sure we're not giving the community a false sense that we can address anything they bring to the table, not everything is a charter change. For the most part the Charter is working and we need to be careful about what we tweak. Policy changes can happen with a council vote, charter changes have to go to the voters.
- (12) **City Attorney Vanni:** Commissioners are correct that with the election date there is a deadline since we want to put recommendations on the ballot (Assuming the elections will shift to 2024 if that's what the commission recommends.) Any charter amendment that affects the employment of a city employee must go before voters - may also have to go to negotiations between the city and the employee before it's put on the ballot.
- (13) **Commissioner Matsumura:** We have two of the four people on the Inclusion and Accountability subcommittee who do not want to be on that subcommittee. How will you handle that?
- (i) **Consultant:** Subcommittee assignments were assigned based on initial preferences shared. We can make

changes as long as it stays below a quorum.

- (b) **Commissioner Matsumura:** I think it would be helpful to spell out how you're envisioning changes to subcommittees. We left the May 17th committee not knowing what the new committee structure was. Would appreciate a very clear process for that.
- (c) **Commissioner Matsumura:** How were Commissioner Amador and Barocio's input on the recommendations template incorporated (What are the equity implications given the commitment our commission has made to equity?) Edit to the template: "Should this be a charter revision" instead of "Must this be a charter revision"
  - (i) **Chair Ferrer:** That's a small enough change that we can make it if there are no objections.
- (d) **Commissioner Matsumura:** Are we going to discuss the Memo from the Governance Structure Subcommittee?
  - (i) **Consultant:** That was only intended to be shared with the subcommittee. It will be agendized once the subcommittee has been discussed.
- (e) **Commissioner Segol:** When I was looking at the subcommittee assignment it struck me that those four people should be in every other subcommittee - because to stick them in their own subcommittee they have no subject to discuss and are excluded from all substantive dialogue. So how are they at all contributing? Mark how can we get these four people in each of the other three subcommittees so that they take their equity lens and apply it to the other subcommittees?
  - (i) **City Attorney Mark Vanni:** All of that can be done in a public meeting that is held in accordance with the Brown Act or you can work with the Clerk's office to coordinate something amongst the subcommittees that complies with the Brown Act.

- (ii) **Commissioner Segol:** Every subcommittee does need to have these people in the meetings early on
  - (iii) **Consultant:** We are trying to bring in the spirit of the AMARI proposal.
- (f) **Commissioner Barocio:** Thank you for including the equity language in the template. Commissioner Segol thank you for your advocacy to ensure the subcommittees have a depth of voice. Are we at 23 or are we still looking for more commissioners?
  - (i) **Megan:** We have not replaced Commissioner Bozzuto.
- (g) **Commissioner Barocio:** I would like to ensure that that's filled as soon as possible. Regarding subcommittee numbers if we have 23 Commissioners at one point, then that's 46 and if we have for standing committees or subcommittees, and we want to be under that, so max out at 11. Four times 11 gives us a total of 44 commissioners serving which basically means 21 of the 23 could be on at least two subcommittees. I wonder if we can look at it that way. Because right now we actually have a six by four. And I think if we were to allow folks who want to be at least in two, we can theoretically have at least 21 of us in two.
  - (i) **Chair Ferrer:** There are a lot of ways we can adjust the subcommittee system and I want to hold off on doing that until after the June 28th public hearing.
  - (ii) **Commissioner Barocio:** I think the next meeting after the June 28th meeting is a good benchmark for adding depth and diversity to all of the subcommittees.
  - (iii) **City Attorney:** Wanted to clarify that the subject matter jurisdiction for this Commission is broadly amending the Charter consistent with the areas the Council has charted it with.
- (h) **Commissioner Monley:** Makes the case that each subcommittee is in fact making an effort to apply an inclusion and equity lens. I'm sure there

is a role for the Accountability Representation Committee and we'll find that but I think we can keep on our mission and know that we are doing the right thing.

- (i) **Commissioner Marshman:** Want to reiterate what Commissioner Monley said that we're all trying to strive for equity.

**b) Is campaign finance indeed under the purview of this subcommittee?**

- (1) **Commissioner Tran:** We wanted to make sure we were responding to the Memo put forward by Council Member Jimenez - it looks like the City Clerk is putting forth a current effort to address campaign finance so we want to make sure we're responsive to real-time developments outside the Commission.

**c) For the topic about rescheduling elections after an earthquake emergency, would this be handled on a city or county level?**

- (a) **Commissioner Matsumura:** This is perhaps already addressed in state law or considered by the City Clerk, Registrar of Voters. Essentially this is a research question for policy experts and how we can find an expedient way to get questions like these clarified so we can set them aside.

- (i) **Chair Ferrer:** This is a great example of something a subcommittee should send to the City Clerk so that we can bring on the City Attorney to advise.

- (ii) **City Attorney:** We typically consolidate our elections with the County-wide elections to save costs. Once we send in a ballot measure we're subject to state law and if you have questions about what happens in the event of an emergency, please send it to the Clerk's office and they'll forward it to me, feel free to also email me directly.

**3. Take motions**

**4. Vote on any motions**

**5. Public Comment**

- a) **Robert Brownstein:** Addresses the issues of equity and accountability and representation. I think the majority of commission members do care about equity and inclusion, and

would like to see those values incorporated into charter changes. But it's also true as the Commissioner calendar is observed, that people have been working out and talking about equity representation for decades, in San Jose. Too often after the election, and the hard work is over. Issues that will advance equity and inclusion and representation are the ones that are postponed or deferred for the next meeting. I think members of this commission should do more than simply talk about equity, you can make it your primary goal to see that those values are incorporated in the charter amendments, specifically amendments that advance equity, inclusion, and equity inclusion lens that inform all the other recommendations.

- b) **Blair Beekman:** to myself, equity can be talked about in many ways, and it's really talk about kind of the heart of equity is to talk about people who are disadvantaged in our society, and who are not given the same breaks as others. It's working out ways that they can have some of those same breaks. I don't think a future with a stronger mayor where he has a silver telephone straight to developers will yield that. I'd love to talk about how there can be public input to the subcommittee process which is something that has been lacking in the past. Thank you for talking about the legal impacts of earthquakes.
- c) **Ellina Yin:** I believe that we should be prioritizing equity and inclusion in the process. I think the Commissioners who have been asking for this from day one have been trying hard to make this process more accessible to everybody. Urge Commissioners to look at Section 10 on how we run boards and commissions. I've seen many violations where public comment was not taken before a vote. In the future we should really outline how Commissions work. We should have the presentation done by the Office of Racial Equity in the beginning and we should have proper training on how procedures and memos are done. I feel this Commission is short on timing and a regular charter review should be a thing going forward.

**B. Discussion on Charter Review Commission Bylaws**

- 1. Defaulting to Council Procedure recommendations
  - a) Council Policy 0-4, beginning on page 29
- 2. **Commissioner Fuentes:** We have to recognize that without the public present, we are meeting in a closed room and we are not being transparent and we're not inclusive. That is fundamental to practicing equity. Yes, we were given two specific topics to look at as part of our

charge but we have the ability to go beyond those. I think it would be valuable to define our bylaws.

3. **Commissioner Fuentes:** Moves that our commission will explore with the city attorney, and the city clerk drafting some general ideas of what bylaws could include. That our Commission will explore with the City Attorney, and the city clerk drafting some general ideas of what bylaws could include.
4. **Chair Ferrer:** The motion is to explore with the City Clerk and Attorney the ideas of establishing bylaws for the committee; report back the findings of that discussion at the next meeting and what could be the tenets of the bylaws.

**C. Discussion from Commissioners about the Motion:**

1. **Commissioner Marshman:** I would be sympathetic if we were anywhere near the beginning but we're just months away. They will probably have financial implications that we will not be able to solve. So I will not support the motion.
2. **Commissioner Monley:** I won't support the motion either. These bylaws will die with the end of the commission's responsibility and we are about four months short of that. It doesn't seem to be a good use of bylaws.
3. **Commissioner Tran:** I speak in support of Commissioner Fuentes' motion; it can help clarify our operations and help us move forward more efficiently.
4. **Commissioner Barousse:** I'll also be supporting the motion tonight; giving us more drive for our Commission and giving us more direction in our process of community outreach. In terms of timeline - it's not a dealbreaker - whatever time we have - having bylaws could be beneficial.
5. **Commissioner Fuentes:** Can City Attorney Vanni comment on the feasibility of the motion?
  - a) **City Attorney Mark Vanni:** Are there any Commissioners that would be tasked to work with the City Attorney? That's the only note of clarification I would like.
6. **Commissioner Matsumura:** Want to underscore comments from Commissioner Tran and Barousse - we're entering a new phase so doing work to ensure we have the best possible process is incredibly timely. I want to see if the maker of the motion would be interested in accepting a friendly amendment to request the City Attorney and Clerk and Commissioner working on them would explore bylaws related to being able to respond to public comment within the context of the Brown Act, and make sure we're taking Public Comment before voting and ensure that we're hearing from every Commissioner who wants to speak.

- a) Commissioner Fuentes: Yes I accept
- b) Commissioner Segura: Yes I accept
- 7. **Commissioner Matsumura:** Request that we do take public comment before the vote on this item.
- 8. **Chair Ferrer:** I'm ok taking Public Comment. The Challenge is if the public doesn't know how you're doing to vote then they can't comment on it; if we vote first then you won't be able to consider public comment before the vote.

**D. Public Comment:**

- a) **Blaire Beekman:** Thank you for raising issues of how to run public meetings. I think you're running the public meetings better. Learning the democratic process is always can be difficult, yet it I think it can be really rewarding once we start understanding what is simply good practices. Most City Council's they have a way that immediately after their public presentation they immediately go to public comment, and then have their Council discussion afterwards. You can follow those models and examples and it shouldn't be too difficult to work on and good luck.
- b) **Ellina Yin:** I feel that taking public comments before a vote makes myself feel much more heard and a part of the conversation. I support the motion and I would also push back on having the Commissioners draft since there are many resources available and would also direct the City Attorney to provide these resources to you. Practicing an equitable process through creating the bylaws is what equity looks like. It's a good model as you go forward in revising the City Charter. Robert's Rules of Order and Rosenberg's Rule the Order, they are not bound by law, they're completely separate. Creating a more friendly comment process is a practice of good faith. On CivicMakers, I feel like there's a lot of pressure being put on Commissioners and CBOs to be doing community outreach, I don't understand what you're being paid for. I would like more accountability from the paid consultant to be providing resources to the Commission and CBOs.
- c) **Danny:** I really support the idea of the bylaws

**E. Take motions**

- 1. Chair presents Commissioner Fuentes' motion: to explore with the City Clerk and Attorney the ideas of establishing bylaws for the committee; report back the findings of that discussion at the next meeting and what could be the tenets of the bylaws.

**F. Vote on any motions**

- 1. Motion Passes

2. Chair Ferrer: Can I have volunteers who want to work on this?
  - a) Commissioner H Tran
  - b) Commissioner Fuentes
  - c) Vice Chair Johnson

**VII. Public Comment (Open Forum)**

- A. Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the City Council.
  1. **Blaire Beekman:** In the second half of this decade we're talking about equity and reimagining ideas. We're talking about how open democratic practices are a very important concept for ourselves. How can individuals in communities have a voice? I think we're finding ways to develop that voice. I don't think it's the strong mayor working with developers and all that can help us procure what's possible. Don't forget open public policy and good democratic processes. Appreciate and respect what Bob Brownstein has shared.
  2. **Ellina Yin:** Really appreciate having public comments heard before and I would also encourage again that Commissioners take a look at Section 10 on Commissions and how they are run, there's a lot of room for improvement.

**VIII. Meeting Schedule and Agenda Items**

- A. The next scheduled meeting of the Charter Review Commission is June 28th, 2021 at 5:30 p.m. via virtual meeting, public hearing at 6pm.
- B. Chair Ferrer: We'll contact volunteer Commissioners to work on the bylaws in between our meetings and good luck to all the subcommittees in their work. Thank you all for your work.

**IX. Adjournment**