

Date: Jan. 12, 2010

Item No. 1
File No. _____

SUNSHINE ORDINANCE TASK FORCE
Compliance and Amendments Committee
AGENDA PACKET CONTENTS LIST*

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Completed by: Chris Rustom

Date: Jan. 7, 2010

***This list reflects the explanatory documents provided**

~ Late Agenda Items (documents received too late for distribution to the Task Force Members)

** The document this form replaces exceeds 25 pages and will therefore not be copied for the packet. The original document is in the file kept by the Administrator, and may be viewed in its entirety by the Task Force, or any member of the public upon request at City Hall, Room 244.



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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
DRAFT MEETING MINUTES
Tuesday, December 8, 2009
4:00 p.m., City Hall, Room 406**

Committee Members: Erica Craven-Green (Chair), Doyle Johnson, Richard Knee, Allyson Washburn

Call to Order: 4:00 p.m.

Roll Call: Present: Craven-Green, Knee, Washburn
Excused: Johnson

Deputy City Attorney: Jerry Threet
Clerk: Chris Rustom

Agenda Changes: Item 9 heard before Item 6

1. Approval of November 10, 2009, meeting minutes (action)(attachment)(5 min)

Motion to approve November 10, 2009, meeting minutes (Knee / Washburn)

Public Comment: None

On the motion:

Ayes: Knee, Washburn, Craven-Green

2. 09031 Hearing on the status of the complaint filed by Kenneth Kinnard against the Human Rights Commission for allegedly withholding information.

Complainant Kenneth Kinnard said he was seeking documents concerning West Bay Trucking and although he has received the bulk of his request, copies of correspondence between the HRC and the company were not included. Those documents, he said, are needed to support of a case being heard in a Sacramento District Court regarding minority hiring.

The respondent was not represented. There was nobody in the audience to present fact and evidence in support of the respondent.

Chair Craven-Green was also told by the complainant that he was also seeking West Bay Trucking's gross receipt statements for the years 1999 thru 2003 as well as

copies of correspondence between the HRC and Eighteen Trucking because he wanted to know if the two companies were sharing the same certification number.

After further discussion, Chair Craven-Green said she would inform Melinda Kanios, who previously represented the HRC, of the disparities and await her response.

Public Comment: None

Motion to correspond with the HRC regarding the remaining issues. Without objection.

3. 09039 Hearing on the status of the September 22, 2009, Order of Determination of Rita O'Flynn against the Mayor's Office on Housing.

Complainant Rita O'Flynn said her case so far shows that certain members of the Mayor's Office of Housing are willing to withhold certain documents and commit fraud and perjury regarding her property at 1672/1674 Great Highway. She said the Committee is aware that in February 2000, Myrna Melgar-Iton of the MOH testified under oath that she was not in receipt of an opt-out letter that Mr. Mark O'Flynn had sent. Yet, she said, it was subsequently revealed that Ms. Melgar-Iton was one of several people who were formulating a response to the letter. That letter should have been in the file and it was not, she said. MOH emails also show that there were payments made to a contractor in 2007 but no reason or explanation was provided. She wanted to be given the opportunity to review Ms. Melgar-Iton's fully-restored email folder.

The respondent was not represented. There was nobody in the audience to present fact and evidence in support of the respondent.

Chair Craven-Green said whether the MOH complied with the HUD program was not an issue. What was relevant was whether the MOH complied with the Task Force's Order of Determination, which instructed MOH to restore Ms. Melgar-Iton's emails covering a certain period and search for emails regarding the property at 1672/1674 Great Highway. To know what was done and what the outcome was dependent on the presence of MOH representatives of which none were present, she said. She also said that MOH could be in full compliance with the Order of Determination but without their input nobody knew the truth.

Motion to forward to matter to the Task Force for a finding of willful violation under Section 67.30 for failure to comply with the Order of Determination, Section 67.34 for failure to produce responsive records and Section 67.21 (e) for failure to send a representative to the hearings. (Craven-Green / Knee)

Public Comment: Peter Warfield said should doubt arise the Sunshine Ordinance allows the Task Force to take the side of the public. He said MOH also violated another provision which says all documents must be kept in a professional and businesslike manner. Mark O'Flynn said his wife has been trying to obtain these records for over a year and has attended every Task Force hearing whereas the MOH has not. He said a strongly worded letter should be sent to the Mayor saying that this type of behavior was not acceptable. He urged the Committee to send the matter back to the full Task Force for appropriate action.

In closing, Ms. O'Flynn said the Task Force could contact her if additional information was needed to support her claim.

On the motion:

Ayes: Knee, Washburn, Craven-Green

4. 09051 Hearing on the status of the October 27, 2009, Order of Determination of Marilyn Mollinedo against the Zoological Society.

Complainant Marilyn Mollinedo said she has received copies of several minutes from the Zoological Society but was troubled by the lack of minutes for a particular meeting and the heavy redaction in those that were provided. She suggested that the person responsible for the redaction do it with a deputy city attorney so that rules are not broken.

Respondent Bob Jenkins with the Zoological Society said the redactions were based on issues related to donors, funding sources and strategies, disciplinary and attorney-client privilege.

Member Knee asked Ms. Mollinedo if she was satisfied with the Zoological Society's response. She said the requirements in the Order of Determination had been met and was satisfied.

Chair Craven-Green reminded Mr. Jenkins that records related to disciplinary issues were subject to release under state law. Mr. Jenkin said the person in question was an employee of a non-profit and not the city or state.

To Member Washburn, Mr. Jenkins said Ms. Mollinedo has not received a set of minutes because the document has not been voted on by the Executive Committee. She would be provided with a copy once it became available, he said.

Public Comment: Peter Warfield said the Sunshine Ordinance and the Public Records Act specify what can be withheld and strategies was not one of them. He added that justifications for the redactions were not provided.

Matter concluded. No further action.

5. 09057 Hearing on the status of the October 27, 2009, Order of Determination of Peter Warfield against the Clerk of the Board for withholding applicant information.

Complainant Peter Warfield of the Library Users Association said he should have had a say on one of his two complaints regarding the redaction of names and addresses before it was determined by the Committee that the Order of Determination was met and no further action was necessary. He also said this complaint was not about applicant information but of contact information. Redaction results in delay, he added.

Respondent Madeline Licavoli, Deputy Clerk with the Clerk of the Board's Office, said the new policy has been implemented and came into effect Nov. 10, 2009.

To clarify, Ms. Licavoli said Mr. Warfield will be provided with information regarding members of the Library Citizens Advisory Committee because he is a member. For others, the document will be redacted, she said.

After further discussion, the Committee found that the Clerk of the Board had not met the requirements of the Order of Determination.

In closing, Ms. Licavoli said she would convey the Committee's sentiments to the Clerk. Mr. Warfield said the matter should be sent back to the Task Force for non-compliance.

Motion to refer matter back to the Task Force. (Knee / Craven Green)

Public Comment: None

On the motion:

Ayes: Knee, Washburn, Craven-Green

6. Developing recommendations for the proposed electronic document retention policy of the Sunshine Ordinance Task Force

Members discussed the topic and continued it to the Jan. 12, 2010, meeting.

Public Comment: None

7. Discussion on the proposed amendments to the Sunshine Ordinance.

Public Comment: Casey Joshua said the Task Force needs to let the voters know that the amendments are being discussed because many people depend on the Ordinance. An anonymous male said the Task Force does not follow its own policies and demands that the complainant prove why a particular document is disclosable and that this agenda item needs to be discussed in the public and not behind closed doors. Dan Boreen said calendars should not be limited to department heads but also to include management staff and that Sunshine needs to apply to public-private partnerships.

Item continued to Jan. 12, 2010, meeting.

8. Administrator's Report. (discussion only) (attachment)

Mr. Rustom made the report.

Public Comment: None

9. Public Comment on items not listed on the agenda

Peter Warfield said complainants should be informed on the outcome of a hearing if they are not able to attend the meeting. He also said the deadline for filing a complaint needs to be established and wanted to know the rationale why some cases are sent to the Compliance and Amendments Committee and some to the Education, Outreach and Training Committee.

10. Announcements, questions, and future agenda items from Committee members.

Member Knee said he may miss the Jan 26, 2010, for medical reasons. He also said the local Society of Professional Journalists is seeking nominations for its James Maddison Award. More information was available at spjchapters.org/norcal, he said.

Adjournment

The meeting adjourned at 5:45 p.m.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force

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