

Date: January 21, 2009

Item No. 1

File No. _____

SUNSHINE ORDINANCE TASK FORCE

Compliance and Amendments Committee

AGENDA PACKET CONTENTS LIST*

- Draft Minutes: Complaint December 9, 2009
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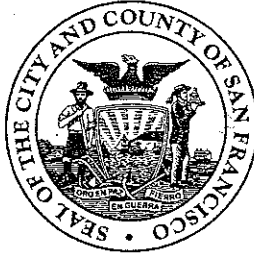
Completed by: Chris Rustom

Date: January 16, 2009

***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.



<http://www.sfgov.org/sunshine>

**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
DRAFT MEETING MINUTES
Tuesday, December 9, 2008
4:00 p.m., City Hall, Room 406**

Committee Members: Richard Knee (Chair), Erica Craven, Kristin Chu

Call to Order: 4:15 p.m.

Roll Call: Present: Knee, Chu
Excused: Craven

Deputy City Attorney: Ernie Llorente
Clerk: Chris Rustom

Agenda Changes: Items 5 heard before Item 3

1. Approval of minutes of November 12, 2008, special meeting.

Motion to approve minutes of November 12, 2008, special meeting (Chu / Knee)

Public Comment: None

On the motion:
Ayes: Chu, Knee
Excused: Craven

Chair Knee then declared a recess until Member Craven arrived. The meeting was restarted at 4:17 p.m.

2. Continued discussion of Ethics Commission responses to Sunshine Ordinance violation referrals (discussion and possible action) (no attachment)

Chair Knee said he would like to ask the Ethics Commission what it meant by "conducted an investigation" because the investigation was done by the Task Force and referred to the commission only for enforcement. He also wanted to know what procedures the commission or staff followed, who participated in the investigation, was anybody from the Task Force invited to testify or submit written testimony, was the complainant contacted and whether the case was investigated by staff and/or rubber-stamped by the commission.

Chair Knee also said the Task Force should strongly object to Ethics Commission Executive Director John St. Croix's statements that said compliance would create a security breach in the District Attorney's Office in the 07077_Allen Grossman v District Attorney referral case and that the City Attorney is a higher authority than the Task Force when it comes to determining the legal duties of City departments in the 07094_Kimo Crossman v City Attorney referral case.

Member Craven said the security breach statement was worrisome and was not surprised that the commission saw that the City Attorney opinion trumps the Task Force's finding. She suggested providing follow-up information when the findings of the Task Force and Ethics Commission are not in agreement. She also suggested providing the commission with clear and detailed information in further referrals and Orders of Determination.

Doug Comstock, former Task Force chair said, he found the letters very troubling because the commission had in previous cases stated that they were dismissing the cases because of insufficient evidence. Now, he said, they are saying that the Task Force made a mistake, a tack that they have never taken before. It is not the commission's duty to determine what is or is not a violation of the Sunshine Ordinance, he said. Its duty is to enforce the punishment, that there was no excuse for it and that it was overstepping its bounds, he added. He suggested inviting Ethics Commission Chair Susan J. Harriman to come for a hearing and have her present the commission's point of view rather than the director's point of view. He said gaining that insight was important because it would show the Task Force what direction it should take in rewriting the ordinance. The commission is a dead-end and a negative force, he said, and it was time for the Task Force to file a Sunshine complaint against the commission for failure to hand over records of the investigations. He said he could do it or his employer, the Westside Observer, would be willing to do it.

Member Craven reminded the Task Force that based on the 07056_Myrna Lim v Ethics Commission complaint, the commission had stated that its investigation files were confidential even though the ordinance disagreed. She did not see any merit in asking for the files because the commission has said the Charter trumps the Sunshine Ordinance. That issue, she said, has to be resolved in a court of law and it would not happen unless someone files a lawsuit through a complaint.

Mr. Comstock said the Task Force needs to do something dramatic to get its point across because the commission does not consider the Task Force valuable and is not paying attention to it. Task Force deliberations are a waste of government money as far as the commission is concerned, he said. He said the Task Force could approach the supervisors, tell them what was occurring and see where they stand.

After further discussion, Member Craven agreed to draft a letter to the Ethics Commission.

Item continued to next meeting.

3. Continued discussion on the status of proposed Sunshine Ordinance amendments and next steps the Task Force will take regarding submitting amendments to the voters. (discussion and possible action) (no attachment)

Member Chu asked Mr. Comstock what were the options and what would he recommend.

Mr. Comstock said the 2009 election is a small election and would be poorly attended. However, he said, the gamble would be on what other items would be on the ballot besides the Sunshine amendments. He wanted the amendments to be on the 2010 California gubernatorial election ballot, which would include the governor's race. because the larger year turnout generally shows better progressive representation among voters. He also said the Task Force should be courting the newspapers and their editorial boards. It also needs to tackle the serial Sunshiner issue, he added.

Member Craven responded that it was very hard to legislate a standard of what is a vexatious requestor. She was open to any suggestions that would address the concern. She added that all she has heard were complaints but no suggestions.

Chair Knee recalled that the last time the proposed ordinance was presented to the supervisors, the Rules Committee added 23 amendments and the Task Force was left having to lobby against it own package. This time around, he said, the Task Force needs to draw up a list to see which amendments could be compromised and what could not be touched. He also added that 2010 was logical because if the amendments have to be put on the ballot by the voters, the number of signatures required to qualify would be only 10 percent of the number of voters who participated in the 2009 election.

Member Craven suggested seeking the supervisors' support and having a final package ready by January 2010 in order to be ready for the following June or November ballot.

Mr. Comstock added that the Task Force should summarize every article in the ordinance and present it to the supervisors and also should highlight the changes and indicate what is was and why it was changed

DCA Llorente reminded the Task Force of the need to emphasize that the amendments would not unduly burden the cash-strapped city and that the changes were not for the exclusive benefit of a handful of people who make use of the ordinance.

After further discussion, Member Craven agreed to annotate and highlight Article 1 for discussion at the next meeting.

Public Comment: Sylvia Johnson commented on the matter.

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

Mr. Rustom made the report.

Public Comment: Sylvia Johnson commented on the report.

5. Public Comment on items not listed on the agenda; to be taken at 5:00 p.m. or as

soon thereafter as possible. (no action) (no attachment)

Public Comment: None

6. Announcements, questions, and future agenda items from Committee members.
(discussion only) (no attachment)

None

Adjournment

The meeting adjourned at 5:20 p.m.

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