

Date: March 12, 2008

Item No. 2
File No. _____

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

- Draft Minutes: Compliance and Amendments for February 13, 2008**
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____

Completed by: Frank Darby

Date: March 6, 2008

***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 MINUTES**

Wednesday, February 13, 2008
4:00 p.m., City Hall, Room 406

Committee Members: Richard Knee, Chair; Doug Comstock; Erica Craven, David Pilpel
Bruce Wolfe, Harrison Sheppard

Call to Order 4:08 P.M.
Roll Call **Present:** Knee, Comstock, Craven, Pilpel, Wolfe, Sheppard (ex-officio, non voting)

Agenda Changes: Item #1 was heard after item #6 and 7 after 4

Deputy City Attorney: Ernie Llorente
Clerk: Chris Rustom

Chair Knee noted that Member Sheppard was an ex-officio/non-voting member and welcomed his opinions and suggestions. Mr Sheppard said he represents the interests of the Sunshine Ordinance and the Compliance and Amendments Committee.

1. Approval of minutes of January 9, 2008.

Public Comment: None

Motion to continue minutes of January 9, 2008 because Mr. Kimo Crossman's comments need clarification. (Comstock / Wolfe)

2. 07075 Hearing on the status of the November 27, 2007, Order of Determination of Laura Carroll against the Mayor's Office of Housing (MOH).

Continued to March 12, 2008, at request of complainant.

3. 07080a Continued hearing on the status of the November 27, 2007, Order of Determination of Dan Boreen against the Fire Department.

Speakers: Dan Boreen, complainant, said there had been no positive outcome in his case and renewed his request to have it forwarded to the Task Force for determination on willful failure to comply. The department, he said, is still waiting for legal guidance from the City Attorney's Office (CAO), which means city attorneys are violating the Sunshine Ordinance by providing advice on how not to comply.

Rhab Boughn, SFFD Representative, said he has not heard from the CAO. He also said Mr. Boreen was initially given documents in which the pay code types were redacted but only a select few were marked the second time around.

In rebuttal, Mr. Boreen said Mr. Boughn by his own statement made it very clear that the department was waiting for the CAO's advice. He said the department and all city attorneys assisting the department, including DCAs Katherine Porter and Gina Roccanova, should be found in willful failure. It's prima facie willful failure, he said.

Public Comment: None

Member Craven, on Point of Order, wanted to know why the matter was before the committee again because the panel agreed at its last meeting to recall the case after the department had produced its policy.

Clerk Rustom, through Chair Knee said Administrator Darby, had prepared and compiled the agenda and had planned to attend the meeting but was called away to attend a Board of Supervisors Budget Committee meeting.

On Chair Knee's questioning, Mr. Boughn said he doesn't know when the written guidelines will be available but the deputy city attorney indicates that she has a heavy workload.

Chair Knee recommended the matter be continued to the next regular meeting with file numbers items 07080a, b and c to be placed on the agenda regardless of whether there is any guideline produced by that time.

Motion to continue. Without objection (Knee)

- 4 07097 Hearing on the status of the January 22, 2008, Order of Determination of Steve Lawrence against the Public Utilities Commission.

Member Craven recused.

Diana Parker, sunshine request coordinator for the PUC, said she has responded to all of Mr. Lawrence's requests.

Mr. Llorente, noting that the PUC was not timely in its initial response, reminded the committee that the question was what more does the department has to do since all requested documents had been provided

Public comment: None.

Member Pilpel suggested the committee take no action.

Member Wolfe wanted to know why this item was on the agenda and if a member had requested it?

Public comment reopened: Member Craven said the chair should review the agenda to see if the document was appropriately calendared since it was at the discretion of

the Chair.

Chair Knee found no further action necessary since the complainant was not present and because there was no further action mentioned in the Order of Determination.

5. Possible amendments to Sections 67.30 to 67.37 of the Sunshine Ordinance and subsequent sections as time permits.

Sec 67.30 The Sunshine Ordinance Task Force.

Sec 67.31 Responsibility for Administration.

Sec 67.32 Provision of Services to other Agencies; Sunshine Required.

Sec 67.33 Department Head Declaration.

Sec 67.34 Willful Failure Shall Be Official Misconduct.

Sec 67.35 Enforcement Provisions.

Sec 67.36 Sunshine Ordinance Supersedes Other Local Laws.

Sec 67.37 Severability.

Sec 67.30 The Sunshine Ordinance Task Force

Public Comment: None.

Member Sheppard requested a clarification of press and electronic media representation and then questioned the need for two members of the commission to be experienced in obtaining public information.

Member Comstock said it was because people who know the process may have a better understanding of what problems the public faces when requesting documents. Members, he said, are here to assist the public and advocate for sunshine.

Member Sheppard said justice would not be served when the task force makes sure that only complainants' rights under the Ordinance are enforced. The task force should also help mitigate or remedy the actual potential abuse of the Ordinance.

Member Pilpel said Prop. G added that the task force is to help requesters, and to determine whether compliance with requests and with the Ordinance has occurred; to recommend changes to the Ordinance to the Board of Supervisors; and to recommend to departments ways to administer it. The current composition of the task force, he said, lacks the experience of a current or ex-employee who could provide input from a department's perspective.

Member Sheppard said it is very important for the task force to have a judicious attitude and a passion to get the facts to arrive at equity.

Member Craven reminded the committee that there were other issues on the agenda.

Motion to strike "a designated representative of the Youth Commission." (Comstock / Wolfe)

Public Comment: None

Ayes: Knee, Comstock, Craven, Pilpel

Noes: Wolfe

Motion to rephrase sentence to say, "The Commission shall have assigned to it an attorney from the City Attorney's Office who is experienced in or well informed in

public-access law matters." Without objection.

Member Sheppard said he was concerned about how the committee interprets the phrase "media wall."

Member Craven said the phrase was intentional because of concerns that the City Attorney was giving far too conservative advice and was not fully advising the Task Force.

DCA Llorente said the language should not be changed, it should continue and be maintained. The Task Force may not agree with his colleagues representing various departments, he said, but that has nothing to do with his commitment to the Task Force.

Member Pilpel said with all the additional work members do now and more so in the future and if the Task Force is elevated to commission status, members should be compensated.

Member Wolfe said compensation should be considered because he has to use his sick and vacation days at work to be able to conduct Task Force business.

Member Sheppard said there should be a normal budget to reimburse Task Force members for actual costs they incurred in connection with their service to the City.

Member Craven requested that discussion be deferred so that she could study a City Attorney document that lists all City bodies and its compensation packages.

Chair Knee noted that only Section 67.30 (b) will be revisited at its March 12 meeting.

Changes to 67.30 (c). were made and the clerk recorded the changes.

Without objection

Section 67.35 titled Hearings and Orders of Determination was created

Section 67.36 Responsibility For Administration had no changes

Section 67.37 was discussed at an earlier meeting.

Section 67.38 continued to March 12, 2008 next meeting

Section 67.39 Willful Failure Shall Be Official Misconduct., modified

Section 67.40 Enforcement Provisions continued to next meeting

6. Administrator's report.

The Administrator made the report.

Public Comment: None

7. Public comment on items not listed on the agenda.

Public Speakers: None.

8. Announcements, questions and future agenda items from CAC members.

Member Sheppard wished all in attendance a Happy Valentine's Day.

Chair Knee said the local chapter of the Society of Professional Journalists will hold its annual James Madison Awards dinner on March 18th at the New Delhi Restaurant in San Francisco. Ticket prices are yet to be announced. The award honors individual and organizations that have championed the First Amendment and/or freedom of information.

Adjournment: The meeting was adjourned at 7:10 p.m.

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