Date: April 14, 2009

Item No. 4
File No. _____

SUNSHINE ORDINANCE TASK FORCE

Compliance and Amendments Committee

AGENDA PACKET CONTENTS LIST*

- [x] Next steps on the Orders of Determination
- [ ] _____
- [ ] _____
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Completed by: Chris Rustom **Date:** _____

***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

City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-7724
Fax No. 415) 554-7854
TDD/TTY No. (415) 554-5227

ORDER OF DETERMINATION
January 26, 2009

DATE THE DECISION ISSUED
January 6, 2009

ANONYMOUS v. SFPD (08056)

FACTS OF THE CASE

Anonymous person checked the City's website and looked for the index of records for the San Francisco Police Department ("SFPD"). The website did not have a listing for the SFPD.

COMPLAINT FILED

On December 4, 2008, Anonymous filed a Sunshine Ordinance Complaint against the SFPD for failure to comply with Section 67.29 of the Ordinance.

HEARING ON THE COMPLAINT

On January 6, 2009, Anonymous appeared before the Task Force and presented his case. Respondent Agency was represented by Sgt. Jack Hart.

The issue in the case is whether the Department violated Sec. 67.29 of the Ordinance requiring the City and County to prepare a public records index that identifies the types of information and documents maintained by City and County departments, agencies, boards, commissions, and elected officers.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the testimony and evidence presented the Task Force finds that the Department violated 67.29 by failing to provide the City Administrator with an Index of Records for the Police Department's records. The Task Force notes that the Police Department has, since the Complaint was filed, provided a partial Index of Records to the City Administrator and is working to finalize the Index in order to comply with 67.29.

DECISION AND ORDER OF DETERMINATION

The Task Force finds that the agency violated Sec. 67.29 of the Sunshine Ordinance. The

ORDER OF DETERMINATION

matter was referred to the Education, Outreach and Training Committee and placed at the chair's discretion.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on January 6, 2009, by the following vote: (Knee / Goldman)
Ayes: Craven, Knee Cauthen, Washburn, Knoebber, Johnson, Chu, Goldman
Recused: Chan
Excused: Williams

Kristin Murphy Chu, Chair
Sunshine Ordinance Task Force

c: Ernie Llorente, Deputy City Attorney
Anonymous
Sgt. Jack Hart

SUNSHINE ORDINANCE
TASK FORCE

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ORDER OF DETERMINATION
March 3, 2009

DATE THE DECISION ISSUED
February 24, 2009

ANONYMOUS (RAY HARTZ) v. SAN FRANCISCO POLICE COMMISSION (09008)

FACTS OF THE CASE

Anonymous person checked the City's website and looked for the Index of Records for the San Francisco Police Commission ("Commission"). The website did not have a listing for the Commission.

COMPLAINT FILED

On December 4, 2009, Anonymous person filed a Sunshine Ordinance Complaint against the Commission for failure to comply with Section 67.29 of the Ordinance.

HEARING ON THE COMPLAINT

On February 24, 2009, Complainant Anonymous appeared before the Task Force and presented his case. Complainant identified himself as Ray Hartz and requested that in this and future complaints he be identified by name. Respondent Agency was not present but had submitted a letter that said the Department was responsible for including and posting the Commission's Index of Records, that the Commission, therefore, should not separately be found in violation of the Ordinance, and that the Commission was working with the San Francisco Police Department and the City Administrator's Office to list its records in the Department's Index of Records and post that document on line.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the testimony and evidence presented the Task Force finds that the Commission failed to ensure that its records were included and posted in an Index of Records as required by Sec. 67.29. The Task Force also found a violation of Sec. 67.21 (e) for failure to appear.

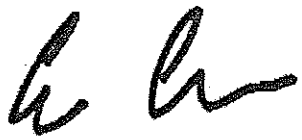
ORDER OF DETERMINATION

DECISION AND ORDER OF DETERMINATION

An Order of Determination finding the Commission in violation of 67.29 for failure to ensure its records were included in an Index of Records posted online and 67.21(e) for failure to send a representative to the Task Force hearing was adopted by the Sunshine Ordinance Task Force on February 24, 2009, by the following vote: (Knee / Goldman)

Ayes: Knee Washburn, Knoebber, Johnson, Goldman, Williams, Craven
Excused: Cauthen, Chu
Absent: Chan

The enforcement of this Order of Determination is referred to the Education, Outreach and Training Committee to work with the appropriate entities to make sure the Commission's records (as well as other entities who are under the direction or control of the Commission) are listed in an Index of Records that is posted online.



Erica Craven, Vice Chair
Sunshine Ordinance Task Force

c: Ray Hartz, Complainant
Lt. Joe Reilly, Police Commission
Lt. Daniel J. Mahoney, Police Department
Ernie Llorente, Deputy City Attorney

SUNSHINE ORDINANCE TASK FORCE
MEETING
DRAFT MINUTES
Tuesday, March 24, 2009
4:00 p.m., City Hall, Room 408

15. 09010 Public hearing on complaint filed by Ray Hartz against the Arts Commission for violating Sec. 67.29 by failing to properly maintain the Index of Records.

Complainant Ray Hartz said he called the Arts Commission and made an IDR to see its equal opportunity plan. Deputy Director Nancy Gonchar called back three days later to say the document did not exist although it was listed on the Index of Records. He requested that the Arts Commission be found in violation for failure to maintain the index.

Respondent Sharon Page-Richie, the Arts Commission secretary, said she had to call Mr. Hartz to understand his request and was subsequently told by Ms. Gonchar that the document did not exist because of a change in city policy. That information was forwarded to Mr. Hartz, she said. She also said she was not aware of the index till recently but was working with Ms. Gonchar and Administrative Services to bring it up to date.

Member Craven said the Education, Outreach and Training Committee should make it a priority to see that the index is up to date.
During clarification by Member Cauthen, Mr. Hartz said he wanted to know the reason behind sending the matter to the EOT when in fact officials have violated the ordinance because they have read and signed the Sunshine declaration.
In rebuttal, Ms. Page-Richie said the department is interested in complying and is in the process of updating the index.
Mr. Hartz said all the documents on the index are retention schedules regardless of the department. Agencies have to update their records because it is the only way the public could identify the record they need from a particular department. To accept the reasons behind why the index was not updated is not reasonable, he said. That is not the way it is done in the military, he added.
Public comment: None
Matter closed.
Chair reopens matter at Member Craven's request.
Member Craven suggested the chair notify the commission that the matter is to be referred to the EOT and that the chair of the committee contact Administrative Services to see which department has not updated their index in the last two years. She thanked Mr. Hartz for bringing up the issue but found that working through the EOT department wide was far better than finding one department in violation.
Chair Chu agreed.

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