

Date: July 9, 2009

Item No. 2  
File No. 09027

## SUNSHINE ORDINANCE TASK FORCE

Education, Outreach and Training Committee

### AGENDA PACKET CONTENTS LIST\*

- Alvin Xex v Office of Economic and Workforce Development
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Completed by: Chris Rustom

Date: July 6, 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.



**SUNSHINE ORDINANCE  
TASK FORCE**



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**ORDER OF DETERMINATION**

July 3, 2009

**DATE THE DECISION ISSUED**

June 23, 2009

*ALVIN XEX v MAYOR'S OFFICE OF ECONOMIC AND WORKFORCE  
DEVELOPMENT (09027)*

**FACTS OF THE CASE**

On May 2009, Complainant Alvin Xex made a Public Records Request with the Mayor's Office of Economic and Workforce Development ("MOEWD"). He requested the names programs/efforts and number of employees within this government department. He also requested the number of and the names or efforts and programs for women and black males.

Alvin Xex claims that he did not get a response to his request.

**COMPLAINT FILED**

On May 14, 2009, Alvin Xex filed a complaint against MOEWD alleging violations of the Sunshine Ordinance.

**HEARING ON THE COMPLAINT**

On June 23, 2009, Complainant Alvin Xex appeared before the Task Force and presented his claim. Respondent Agency was represented by Kriztina Palone. She presented the Agency's defense.

Alvin Xex said he made a verbal request but did not follow up. However, he said he was going to submit a new detailed request and leave the proper contact addresses with Kriztina Palone.

Kriztina Palone said she did receive a verbal request but did nothing to it because she believed the request had to be in writing. She said she responded immediately when the City Attorney told her of her obligation under the Ordinance to respond to oral requests.

However, because she was unable to send the information to Alvin Xex, she sent it to the Task Force which forwarded it to Alvin Xex.

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the testimony and evidence presented, the Task Force advised the Agency that oral requests are legitimate under the Ordinance and need a response. If it is an IDR, the response must be by the close of the next business day and other public document requests have to be responded to as soon as possible but no later than 10 days.

### DECISION AND ORDER OF DETERMINATION

The Task Force finds that the agency violated Sec. 67.21 ( b ) of the Sunshine Ordinance for untimely response. The agency is to appear before the Education, Outreach and Training Committee on July 9, 2009, in Room 406 at 4 p.m.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on June 23, 2009, by the following vote: ( Knee / Johnson )  
Ayes: Craven-Green, Knee, Cauthen, Washburn, Knoebber, Johnson, Chan, Goldman, Chu  
Excused: Williams



Kristin Murphy Chu, Chair  
Sunshine Ordinance Task Force

- c: Ernie Llorente, Deputy City Attorney
- Alvin Xex, complainant
- Kriztina Palone, respondent

Motion to continue to July meeting ( Craven-Green / Cauthen )

Public Comment: Ray Hartz said to continue this matter would be to deny the complainant a chance to make the appropriate approach and response when the contract is awarded on July 1. If the department is doing this process in an open and fair way, they should be willing to show what's in the files, he said.

On the motion:

Ayes: Craven-Green, Knee, Cauthen, Washburn, Goldman

Noes: Knoebber, Johnson, Chan, Chu

Excused: Williams

9. 09027 Determination of jurisdiction on complaint filed by Alvin Xex against the Office of Economic and Workforce Development for alleged failure to respond.

Motion to find jurisdiction ( Goldman / Cauthen )

Public Comment: None

On the motion:

Ayes: Craven-Green, Knee, Cauthen, Washburn, Knoebber, Johnson, Chan, Goldman, Chu

Excused: Williams

10. 09027 Hearing on the complaint filed by Alvin Xex against the Office of Economic and Workforce Development for alleged failure to respond.

Complainant Alvin Xex said he made a verbal request and did not follow up. He said he did not receive the information he was seeking.

Respondent Kriztina Palone said she did receive a phone call from Mr. Xex, but did nothing because she believed that requests have to be written. On the advice of the City Attorney she provided the response on June 1.

Mr. Xex, while responding to Member Cauthen's questioning, said he wanted a continuance because he wanted to make a detailed request and that the verbal request was left on a message system.

Ms Palone, responding to Member Knoebber, said the response was provided through the Task Force because the telephone conversation was cutoff before he could provide his contact information and his email and address on the complaint form was redacted.

Mr. Xex said he would provide the contact information.

Both parties did not rebut.

Motion to find violation of untimely response and referred matter to the

Education, Outreach and Training Committee. ( Cauthen / Goldman )

Member Craven-Green suggested the matter be sent to the Compliance and Amendments Committee.

Chair Chu sent the matter to the Education, Outreach and Training Committee for one hearing and then to the Compliance and Amendments Committee if the matter was not resolved.

Public Comment: Ray Hartz said 10 years after the law was passed, city officials are still claiming ignorance. If that happened in a court, the response would be that ignorance of the law is not an excuse.

Motion to find violation of 67.21 (b) for untimely response ( Knee / Johnson )

On the motion:

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

11. 09028 Determination of jurisdiction on complaint filed by Alvin Xex against the Department of Human Resources for alleged failure to respond.

Motion to find jurisdiction ( Goldman / Cauthen )

Public Comment: None

On the motion:

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

12. 09028 Hearing on the complaint filed by Alvin Xex against the Department of Human Resources for alleged failure to respond.

Respondent was not present. No one was present to give evidence in support of the complainant.

Respondent Paul Greene of the Department of Human Resources said although Mr. Xex alleged that he made the request on May 8, the first contact with him was May 13 when he left a message for Director Micki Callanhan requesting a meeting and made no mention of a records request. Ms. Callanham's assistant Jessica Williams called Mr. Xex the next day and when it became known that he was making a request for records, he was forwarded to Jennifer Johnston. During that conversation he asked to whom he should address the request and never did make a records request. The department became aware of the request only when it received the complaint notification from the Task Force. And because his contact information on the complaint