

Date: Feb. 24, 2009

Item No. 14
File No. _____

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- Annual report to BOS
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Completed by: Chris Rustom

Date: Feb. 19, 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.

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SUNSHINE ORDINANCE TASK FORCE

2008 ANNUAL REPORT

The Sunshine Ordinance Task Force has had an exciting year. It has been a year of many changes and challenges.

Over the last year the Task Force has, and will continue to, proactively seek opportunities for educating and advocating for open government to both the public and city departments. In addition we have developed recommended policies and procedures around the biggest open government issues.

After the work of 2008 we are ready to finalize the legislative amendments to the Sunshine Ordinance that will both streamline open government processes and expand our current laws. We look forward to working with each Supervisor on this very exciting initiative.

During 2008 the members of the Task Force have changed substantially which put us in a position to learn from the insights of new members while relying on the experience of continuing members.

With the change of the members of the Task Force we took some time to look back at our work and see what we can learn. Some the most significant findings and our general conclusions are:

- Most of the hearings are around public records (82%) rather than open meetings (18%).
 - Public records issues should be a focus of education, policy developments and amendments priorities.
- If a complaint results in a hearing we usually find a violation (69% of the time).
 - The success of Orders of Determinations and referrals should be studied and actions & alternatives developed.
- The highest frequency violation (42%) is 67.21, "Process for Gaining Access to Public Records; Administrative Appeals" (see statistics for a breakdown of frequency within 67.21).
 - 67.21 should be a focus of education, policy developments and amendments priorities.
- We have a concentrated number of complainants: 49% of hearings were initiated by 5 unique complainants.
 - These 5 complainants should be included in policy and amendments development and a focus of outreach efforts.
- We have a group of respondents (city departments) with multiple hearings: 65% of hearings involved 11 unique respondents.
 - These 11 respondents should be a focus of education and outreach efforts and their feedback consulted in policy and amendments development.

We are grateful for our Assistant Administrator Chris Rustom from the Clerk of the Board's office and DCA Earnst Llorente from the City Attorney's office for their continued support

of the Task Force which is always thorough and professional. We look forward to working closely with the Board of Supervisors in the coming year.

ACCOMPLISHMENTS

- The Sunshine Ordinance Task Force continued to undertake an extensive review and discussion of the Sunshine Ordinance and proposed amendments in order to clarify and streamline the process.
- Fifty-eight complaints were filed by community members in 2008. Of the 58 complaints, the Task Force issued 32 orders of determination, 16 went to city departments and seven went to commissions.
- A total of 2429 public inquiries were responded to by the SOTF administrator.
- One hundred percent of requests made to the Task Force were responded to within five days.
- Eight potential complaints were resolved through mediation initiated by the SOTF administrator.
- The SOTF's Deputy City Attorney provided over 60 pieces of written legal analysis on open government complaints and issues.
- The Compliance & Amendments Committee did hear 15 cases and referred four to the Ethics Commission and one to the Board of Supervisors. The Commission dismissed all four referrals. The Task Force also wrote a letter each to the Board of Supervisors and the City Attorney's Office.
- The Complaint Committee reviewed 19 complaints and forwarded 17 to the full task force for review.
- 34 complainants requested a Task Force hearing outright.
- The Web site for the SOTF was redesigned to provide greater access to individuals seeking information regarding open government laws.
- A new feature on the web site is a chart showing all the Orders of Determination issued in 2008. The chart is also linked to the Orders, the referrals, and referral agency's responses.
- The Education, Outreach and Training Committee undertook to update its Mission Statement and Work Program to better reflect its function and mission.

COMPLAINTS RECEIVED OR ADJUDICATED DURING 2008

Date Received	Complainant	Department	Status	Violation
1/3	Kimo Crossman	District Attorney	No action taken	
1/7	Hank Wilson	Health Dept. (HPPC)	Withdrawn	
1/10	Christian Holmer	Mayor's Office	Withdrawn	
1/10	Kimo Crossman	City Attorney	Referred to Ethics	67.21 (a), 67.21 (I), 67.24 (b) (I) (iii)
1/10	Kimo Crossman	City Attorney	Referred to Ethics	
1/10	Kimo Crossman	City Attorney	Referred to Ethics	
1/10	Kimo Crossman	City Attorney	Referred to Ethics	
1/14	Stephen Worsley	Rec & Park Dept.	No action taken	
2/9	Patrick Monett-Shaw	Board of Supervisors	Withdrawn	
2/11	Patrick Monett-Shaw	Health Dept.	Withdrawn	
2/20	David Waggoner	Ethics Commission	No action taken	
3/2	Kimo Crossman	Clerk of the Board, SOTF Admin	Withdrawn	
3/2	Kimo Crossman	SOTF Admin	Referred to Board of Supervisors	67.21 (a)
3/4	Jason Berckart	Human Rights Commission	Unable to contact complainant	
3 / 4	Deneise Bolbol	Zoological Society		67.25

Date Received	Complainant	Department	Status	Violation
3/7	Anonymous	Arts Commission	Withdrawn	
3/17	Kimo Crossman	Clerk of the Board, SOTF Admin	No violation	
3/17	Kimo Crossman	Clerk of the Board, SOTF Admin	No action taken	67.21-1
4/8	Kimo Crossman	Clerk of the Board, SOTF Admin, DTIS	No violation	
5/2	Peter Witt	Taxi Commission		67.15, 67.16
5/2	Kimo Crossman	City Attorney	No violation	
5/2	Kimo Crossman	Clerk of the Board	No action taken	
5/20	Anonymous Tenants	Planning Department	No action taken	
5/20	Michael Addario	Arts Commission	No action taken	67.5
5/21	Kimo Crossman	City Attorney	Withdrawn	
5/21	Kimo Crossman	City Attorney	Withdrawn	
5/21	Kimo Crossman	Mayor's Office	Withdrawn	
5/21	Kimo Crossman	City Attorney	Withdrawn	
5/29	Barry Taranto	Taxi Commission	No action taken	
5/29	Kimo Crossman	Clerk of the Board, soTF Admin	Withdrawn	
6/3	Kimo Crossman	Ethics	Referred to the Board of Supervisors and Ethics Commission	67.21 (1)

Date Received	Complainant	Department	Status	Violation
6/4	Kimo Crossman	City Attorney	Referred to BOS & CAO	67.21 (1) and CPRA 6253.9 (a) & (b)
6/25	Charles Pitts	Human Services	No violation	
6/27	Thomas Picarello	Supervisor McGoldrick	No violation	
6/30	Neils Welin	Municipal Transportation Authority	Withdrawn	
6/25	Juan De Anda	Health Dept.	No jurisdiction	
7/8	Kimo Crossman	Supervisor Peskin		67.21 (e) & 67.24 (a) (ii)
7/28	Kin Tso	Animal Control and Welfare Commission	No action taken	
7/28	Allen Grossman	City Attorney	No violation	
7/30	Eula Walters	Rec & Park Dept.	No violation	
8/1	Kimo Crossman	DTIS & SFGTV	Withdrawn	
8/1	Kimo Crossman	DTIS, SFGTV, City Administrator, Media Services, SOTF-A & Clerk of the Board	Withdrawn	
8/5	Charles Pitts	Police Department	Withdrawn	
8/19	Brian Brown	Building Inspection Dept.	Withdrawn	
8/26	Barry Taranto	Municipal Transportation Authority	No action taken	67.15
8/26	Karl Beale	Rec and Park Dept. & Library	No violation	
8/26	Peter Witt	Taxi Commission	No action taken	

Date Received	Complainant	Department	Status	Violation
8/26	Anonymous Tenants	Building Inspection	Withdrawn	
9/3	John Caldera	Veteran Affairs Commission	No action taken	
10/17	Charles Pitts	Office of Criminal Justice	No violation	
11/3	Paul Horcher	Planning Dept.	No action taken	67.21 (a) & (c)
11/13	Alvin Xex	Arts Commission	No violation, referred to Education, Outreach and Training Committee	
11/19	Peter Witt	Taxi Commission	No further action	
12/2	Anonymous Tenants	Building Inspection	No further action	
12/2	Kimo Crossman	City Attorney, DTIS, SFGTV	No further action, referred to Education, Outreach and Training Committee	67.21 (l) & CPRS 6253.9
12/4	Anonymous	Police Department	Referred to Education, Outreach and Training Committee	67.29
12/16	Laborers' Union Local 261	Labor Standards Enforcement	In progress	
12/16	Peter Warfield	Capital Planning Committee	Withdrawn	

ORGANIZATION & COMMITTEE STRUCTURE

The Chair of the Task Force appoints committee chairs and its members. Each member of the Task Force must also be a member of a committee.

Ad Hoc Committees are appointed as needed. There have been several Ad Hoc Committee meetings to deal with suggested Sunshine Ordinance provisions for the City College Board, access to public meetings and public records at the San Francisco Community College District, and the San Francisco Unified School District's proposed Open Government Policy.

The Task Force has four Standing Committees:

- **Complaint Committee:** The committee monitors the complaint process and makes recommendations to the Task Force regarding how the complaints should be handled. If the efforts of the Administrator and the Deputy City Attorney fail to obtain the information to which a complainant is legally entitled, the matter will be referred to the Complaint Committee for a hearing to determine whether the Task Force has jurisdiction over the complaint, and to clarify the complaint. If jurisdiction is found, a Task Force hearing will be held at which time the complainant and the respondent will present the merits of their respective cases. See § VII, Addendum # 2 for a copy of the complaint form.

Members of the Complaint Committee in 2006-2007 were: Sue Cauthen (Chair); Kristin Chu, Nicholas Goldman, and Bruce Wolfe.

- **Compliance & Amendments Committee:** This Committee was appointed in 2002. This Committee monitors compliance with the Orders of Determinations adopted by the Task Force and recommends to the Task Force amendments to the Sunshine Ordinance regarding enforcement of the Orders of Determination. The Committee also considers recommendations, amendments, and changes to the Sunshine Ordinance as provided by members of the Task Force, City departments, and the general public.

Members of the Compliance and Amendments Committee in 2006-2007 were: Richard Knee (Chair), Erica Craven, Doug Comstock.

- **Education, Outreach, and Training Committee:** Unless the public is aware of its right of access to information and participation, the value of the ordinance would be minimal. Therefore, the Education, Outreach and Training Committee was created to provide outreach and publicity to the media, to the general public, and to oversee the preparation and publication of information.

Members of the Education, Outreach, and Training Committee in 2006-2007 were: David Pilpel (Chair); Bruce Wolfe; and Marjorie Williams

- **Rules Committee:** This committee was established to review matters related to amendments to the Task Force by-laws and procedures so the Task Force's work could proceed in an orderly manner. The committee also helps to ensure that all annual objectives enumerated in the Sunshine Ordinance are met by the Task Force. As with all committees, recommendations for action are made to the full Task Force for final action.

Members of The Rules Committee in 2006-2007 were: Bruce Wolfe (Chair); Hanley

Chan; and Doug Comstock.

ADDENDA

1. Membership of Task Force
2. Complaint Form and Overview of Procedures
3. Sunshine Ordinance Task Force Web Page Contents

**SUNSHINE ORDINANCE TASK FORCE
MEMBERS DURING 2006-2007
(Terms expire 4/27)**

Seat 1	Submitted by the local chapter of the Society of Professional Journalists and be an attorney. Appt 8/25/04, reappointed 5/27/08.	Erica L. Craven Term ends 4/10 District 8
Seat 2	Submitted by the local chapter of the Society of Professional Journalists and be a journalist. Appt 5/3/02, reappointed 5/27/08	Richard Knee Term ends 4/10 District 3
Seat 3	Member of the press or electronic media with an interest in citizen access. Appt 5/3/02, reappointed 5/27/08	Sue Cauthen Term ends 4/10 District 3
Seat 4	Appointed from names submitted by New California Media now know as New America Media; be a journalist from a racial/ethnic-minority-owned news organization. Pueng Vongs appt 4/1/06, resigned 2/13/07 Ketaki Gokhale appt 5/27/08, resigned 9/2/08	Vacant
Seat 5	Submitted by the League of Women Voters. Replaced Kristin Chu. Appt 5/27/08	Allyson Washburn Term ends 4/10 District 2
Seat 6	Experienced in consumer advocacy. Replaced Doug Comstock. Appt 6/20/08:	James Knoebber Term ends 4/10 District 3
Seat 7	Experienced in consumer advocacy. Replaced David Pilpel. Appt 11/7/08	Doyle Johnson Term ends 4/10 District 8
Seat 8	Demonstrated interest in or has experience in the issues of citizen access and participation in local government. Replaced Bruce Wolfe. Appt 5/27/08	Kristin Chu Term ends 4/10 District 1
Seat 9	Demonstrated interest in or has experience in the issues of citizen access and participation in local government. Appt 4/1/06, reappointed 5/27/08	Hanley Chan Term ends 4/10 District 3
Seat 10	Demonstrated interest in or has experience in the issues of citizen access and participation in local government. Appt 6/2/05. Reappointed 5/27/08	Nick Goldman Term ends 4/10 District 8
Seat 11	Demonstrated interest in or has experience in the issues of citizen access and participation in local government. Appt 5/25/01; re-appointed 5/9/03; 6/2/05; 1/14/08 and	Marjorie A. Williams Term ends 4/07 District 10
Ex- Officio	Clerk of the Board or her designee (non-voting): Gloria Young served from 1/06 to 4/07	Angela Calvillo Begins 7/07
Ex- Officio	Mayor or his designee (non-voting) Richard Sklar replaced Harrison Sheppard. 7/30/08; passed away 1/27/09	(Vacant) Term ends 7/30/10 District ---



SUNSHINE ORDINANCE TASK FORCE

1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102

Tel. (415) 554-7724; Fax (415) 554-7854

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

Thank you for your interest in the implementation of the San Francisco Sunshine Ordinance.

The Sunshine Ordinance adopted by the citizens of the City & County of San Francisco declares that:

- (a) Government's duty is to serve the public, reaching its decisions in full view of the public.
- (b) Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance will assure that their deliberations are conducted before the people and that City operations are open to the people's review.

The role of the Sunshine Ordinance Task Force is to advise the Board of Supervisors and provide information to other City departments on appropriate ways in which to implement the Ordinance. The Task Force is responsible for developing appropriate goals to ensure the practical and timely implementation of the Ordinance and to report to the Board on practical or policy problems encountered in the administration of the Ordinance.

If you have encountered problems regarding compliance with the Ordinance, the Public Records Act or the Ralph M. Brown (Public Meetings) Act, we ask that you fill out the attached complaint form. Please deliver the form to Frank Darby, Administrator of the Sunshine Ordinance Task Force, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683.

We attempt to resolve complaints informally where possible, through the affected departments and the City Attorney's office. Matters that cannot be adequately resolved, or matters that involve substantial policy considerations, may be set for hearing at a Task Force meeting. The Task Force meets the fourth Tuesday of each month at 4:00 p.m. at City Hall, Room 408.

Notice: Personal information that you provide is subject to disclosure under the California Public Records Act and the Sunshine Ordinance, except when confidentiality is specifically requested. Complainants can be anonymous as long as the complainant provides a reliable means of contact with the SOTF (Phone number, fax number, or e-mail address).



SUNSHINE ORDINANCE TASK FORCE
 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102
 Tel. (415) 554-7724; Fax (415) 554-7854
<http://www.sfgov.org/sunshine>

SUNSHINE ORDINANCE COMPLAINT

COMPLAINT AGAINST WHICH DEPARTMENT OR COMMISSION

Name of individual contacted at Department or Commission _____

- Alleged violation public records access
- ALLEGED VIOLATION OF PUBLIC MEETING.**
- DATE OF MEETING**

Sunshine Ordinance Section _____

(If known, please cite specific provision(s) being violated)

Please describe alleged violation. Use additional paper if needed. Please attach any relevant documentation supporting your complaint.

Do you want a public hearing before the Sunshine Ordinance Task Force? yes no
 Do you also want a pre-hearing conference before the Complaint Committee? yes no

*(Optional)*¹

Name _____ Address _____

Telephone No. _____ E-Mail Address _____

Date _____

Signature _____

I request confidentiality of my personal information. yes no

¹ NOTICE: PERSONAL INFORMATION THAT YOU PROVIDE MAY BE SUBJECT TO DISCLOSURE UNDER THE CALIFORNIA PUBLIC RECORDS ACT AND THE SUNSHINE ORDINANCE, EXCEPT WHEN CONFIDENTIALITY IS SPECIFICALLY REQUESTED. YOU MAY LIST YOUR BUSINESS/OFFICE ADDRESS, TELEPHONE NUMBER AND E-MAIL ADDRESS IN LIEU OF YOUR HOME ADDRESS OR OTHER PERSONAL CONTACT INFORMATION. Complainants can be anonymous as long as the complainant provides a reliable means of contact with the SOTF (Phone number, fax number, or e-mail address).



Filing a Complaint with the Sunshine Ordinance Task Force

1. You may fill out a Complaint Form, or you may send your own letter filing a formal complaint. The complaint is filed with the Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Pl., Room 244, San Francisco CA 94102-4689. (Fax # 415 554 7854)
2. Once your complaint is received, the Complaint Committee of the Sunshine Ordinance Task Force reviews the complaint to determine if the Sunshine Ordinance Task Force has jurisdiction.
 - Jurisdiction is defined as those items the Task Force may address as outlined in the Sunshine Ordinance
3. Once the Complaint Committee completes its consideration, the complainant is notified of the Committee's decision.
4. If the Complaint Committee finds no jurisdiction over the alleged violations in the complaint, the complainant could request reconsideration before the full Task Force at its next scheduled meeting. Should the full Task Force find jurisdiction, a full hearing on the merits would be scheduled.
5. If the Complaint Committee finds the Task Force has jurisdiction, the complainant, respondent, and the Task Force Members are notified in writing of the jurisdiction decision, and the specific matters, which the Complaint Committee has found jurisdiction.
6. The complaint is then scheduled for a hearing before the next meeting of the Sunshine Ordinance Task Force.
7. If additional information is to be submitted from the complainant or respondent, the additional material must be submitted to the Sunshine Ordinance Task Force Administrator at least seven days before the scheduled hearing before the Task Force.
 - (a.) If the complainant submits any additional material after the seven day deadline, the complainant will be informed that
 - The Task Force may proceed without considering the new material, or
 - The complainant may waive the 45-day time line set and continue the hearing to the next Task Force meeting (the question to be the matter on which the Complaint Committee has granted jurisdiction), or
 - The complainant may withdraw the complaint and file a new complaint to be considered by the Complaint Committee, or
 - The complainant may proceed to hearing with their current complaint and file a new complaint and use the new information to support the freestanding separate complaint.
8. After the Task Force completes its public hearing, the Task Force would make an Order of Determination regarding the complaint.
9. For further information, contact the Sunshine Ordinance Task Force Administrator, Frank Darby at (415) 554 7724.

SUNSHINE ORDINANCE TASK FORCE

WEB SITE INFORMATION

In 2008 the Sunshine Ordinance Task Force web page received 3,738,109 hits. The web page consists of:

- Current agendas and minutes
- Meeting notices
- Past years' agendas and minutes
- Public records listing and retention schedule
- By-laws of the Task Force
- Other related documents and information

Information on:

- The Sunshine Ordinance
- Membership of the Task Force
- Committee structure of the Task Force
- Non-profit requirements (Administrative Code, Chapter 12L)
- Duties and responsibilities of the Task Force
- Complaint Procedures and Form
- Frequently asked questions

