

Date: March 24, 2009

Item No. 1

File No. _____

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- Draft Minutes: Task Force February 24, 2009**
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Completed by: Chris Rustom

Date: March 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



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**SUNSHINE ORDINANCE TASK FORCE
SPECIAL MEETING
DRAFT MINUTES**

Tuesday, February 24, 2009
4:00 p.m., City Hall, Room 408

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Kristin Chu (Chair)
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	(Vacant)	Seat 11	Marjorie Ann Williams
Seat 5	Allyson Washburn		
Seat 6	James Knoebber	Ex-officio	Angela Calvillo
Seat 7	Doyle Johnson	Ex-officio	(Vacant)

Call to Order The meeting was called to order at: 4:00 P.M.

Roll Call **Present:** Craven, Knee, Washburn, Knoebber, Johnson, Goldman, Williams
Excused: Cauthen, Chu
Absent: Chan

Agenda Changes: Item 19 heard before Item 10

Deputy City Attorney: Ernie Llorente and Rosa Sanchez
Administrator: Chris Rustom

1. Approval of minutes for January 27, 2009, regular meeting.

 Motion to approve minutes (Knoebber / Goldman)

 Public Comment: None

 On the motion:
 Ayes: Knee, Washburn, Knoebber, Johnson, Goldman, Williams, Craven
 Excused: Cauthen, Chu
 Absent: Chan
2. 08057 Determination of jurisdiction on complaint filed by Vince Courtney against Labor Standards Enforcement for not providing documents related to a wage-rate issue

Respondent Donna Levitt of the Labor Standards Enforcement office said the city and the union were in arbitrary talks that ended at 3 p.m. earlier in the day. She also said the complaint was not Sunshine related and the Ordinance was not violated.

Motion to continue matter to March 24, 2009, regular meeting (Goldman / Johnson)

On the motion:

Ayes: Knee, Washburn, Knoebber, Johnson, Goldman, Williams, Craven

Excused: Cauthen, Chu

Absent: Chan

3. 08057 Public hearing on complaint filed by Vince Courtney against Labor Standards Enforcement for not providing documents related to a wage-rate issue

Matter continued to March 24, 2009, meeting

4. 09001 Determination of jurisdiction on complaint filed by Anonymous against the City Attorney's Office and DCA Matt Dorsey for incomplete responses, non-responsive information and failure to comply on a timely basis

Matter continued to March 24, 2009, meeting

5. 09001 Public hearing on complaint filed by Anonymous against the City Attorney's Office and DCA Matt Dorsey for incomplete responses, non-responsive information and failure to comply on a timely basis

Matter continued to March 24, 2009, meeting

6. 09002 Determination of jurisdiction on complaint filed by Rita O'Flynn against the Department of Technology for not providing emails related to an inquiry made to the Mayor's Office of Housing.

Matter continued to March 24, 2009, meeting

7. 09002 Public hearing on complaint filed by Rita O'Flynn against the Department of Technology for not providing emails related to an inquiry made to the Mayor's Office of Housing.

Matter continued to March 24, 2009, meeting

8. 09004 Determination of jurisdiction on complaint filed by Anonymous against the City Attorney's Office and DCA Matt Dorsey for violation of Sec. 67.25 (a) & (b)

DCA Llorente recused himself and was replaced by DCA Sanchez.

Motion to find jurisdiction (Goldman / Knoebber)

Public Comment: None

On the motion:

Ayes: Knee, Washburn, Knoebber, Johnson, Goldman, Williams, Craven

Excused: Cauthen, Chu

Absent: Chan

9. 09004 Public hearing on complaint filed by Anonymous against the City Attorney's Office and DCA Matt Dorsey for violation of Sec. 67.25 (a) & (b)

Complainant Ray Hartz said the issue is timely response because the instructional letter mentioned other matters that he did not wish to respond at this time. He said he placed an Immediate Disclosure Request on DCA Llorente's timesheet on Jan 12. The response in the form of over 140 pages showed that it was printed on Jan 13 but only provided on Feb 5. He also said that DCA Dorsey's response to his inquiries did not discuss the time element but focused on the anonymity issue

Respondent DCA Dorsey said documents provided by Mr. Hartz identify himself as the anonymous complainant. Mr. Hartz, he said, is not asking the Task Force to preserve his anonymity. Everybody in the room knows who the anonymous complainant is, but those in the dark are the public because the information is being denied to them. He requested items 4, 5, 8 and 9 be continued to the March meeting and have it properly noticed. On the complaint, he said although the office received the Immediate Disclosure Request it could not be treated as one because of the work involved in producing the document. All deadlines were met, he added.

Member Knee sought clarification on what types of information fall under an Immediate Disclosure Request because the Ordinance does not make a distinction.

DCA Dorsey said that his understanding was that although the request was properly worded it was an exhaustive and demanding request. DCA Sanchez said if a request was voluminous and takes time to go through for redactions etc. it is not an Immediate Disclosure Request because by nature, it would take a lot of time to produce it. Both, the Sunshine Ordinance and the government code address it, she added.

Chair Craven said certain documents are appropriate for Immediate Disclosure Request s. Sec. 67.25 (a) talks about a category of non-exempt information as well as maximum deadlines are provided for demanding requests. Nothing in the Ordinance demands that the department drops everything and works to meet the by-the-end-of-the-next-business-day deadline, she said. There were documents that are appropriate as well as inappropriate for an IDR, she added.

In summary, DCA Dorsey said he would not be working for the City Attorney as a public information officer if he were not for open government. He also said the Task Force needs to address the anonymity issue because it deprives a lot of people valuable information.

Mr. Hartz said DCA Dorsey's responses are always non-responsive and the reason he files Immediate Disclosure Requests is because it would take several weeks to get the information. The information in this case was redacted and printed the next day but withheld, he said.

After further discussion a motion was presented.

Motion to find no violation (Craven / Goldman)

Public Comment: Kimo Crossman said not providing the information on a daily and incremental basis was a violation. Also, the department showed bad faith by invoking two extensions. On anonymity, he said unless Mr. Hartz feared retaliation the public has the right to know.

On the motion:

Ayes: Washburn, Knoebber, Goldman, Craven

Noes: Knee, Johnson, Williams

Excused: Cauthen, Chu

Absent: Chan

Motion fails.

No further action taken on complaint.

10. 09006 Determination of jurisdiction on complaint filed by Joshua Arce and Eric Brooks against the Public Utilities Commission for violation of Sec. 67.21 and Sec. 67.29-7

Chair Craven asked to be recused because her spouse worked for the PUC. Without objection. She named Member Knee as temporary chair. Chair Knee said he was acquainted with one of the complainants but felt that would not prejudice him. Member Williams said she was familiar with the issues raised in the complaint and that she was on the side of the complainants.

Matter continued to March 24, 2009, meeting because of a loss of quorum. Without objection

11. 09006 Public hearing on complaint filed by Joshua Arce and Eric Brooks against the Public Utilities Commission for violation of Sec. 67.21 and Sec. 67.29-7

Matter continued to March 24, 2009, meeting because of a loss of quorum. Without objection

12. 09008 Determination of jurisdiction on complaint filed by Anonymous against the Police Commission for failure to maintain an Index of Records

Motion to find jurisdiction (Goldman / Knoebber)

Public Comment: None

On the motion:

Ayes: Knee, Washburn, Knoebber, Johnson, Goldman, Williams, Craven

Excused: Cauthen, Chu

Absent: Chan

13. 09008 Public hearing on complaint filed by Anonymous against the Police Commission for failure to maintain an Index of Records

Complainant Anonymous said the commission sets policy for the department and it is responsible to follow the law. Letting the department take care of their Index of Records is not justified, he said. He recalled that Lt. Jack Hart had said during an earlier hearing that the department needed the commission's approval. The department was found in violation and so the commission should be found in violation, he added.

Member Knee said the commission and the department have had a number of years to fulfill the requirement and that there was no excuse for the failure to get it done. The commission's absence at the hearing was also a violation of Sec. 67.21 (e), he said.

Chair Craven said the commission should be responsible for its own and its subservient entity's records.

To clarify, Mr. Hartz said he filed the complaint because departments shift positions and manipulate the law so as not to follow it. The commission, like the department, is in violation, he said. To say that the department is working on the Index of Records is not justified, he added.

Motion to find violation of Sec. 67.29 and Sec. 67.21 (e) (Knee / Goldman)

Public Comment: Kimo Crossman praised Mr. Hartz for taking on the difficult task of getting something from the Police Department. He said the Index of Records includes more information than the records retention schedule used by many city departments. The fault is with the department because the commission only sets policy and is banned by the Charter to get involved in day to day matters, he said.

Chair Craven made a friendly motion and was accepted.

Motion to find Police Commission in violation for failure to ensure that its records are included within the Index of Records as required by Sec. 67.29 and for violation of Sec. 67.21 (e) for failure to appear. (Knee / Goldman)

On the motion:

Ayes: Knee, Washburn, Knoebber, Johnson, Goldman, Williams, Craven

Excused: Cauthen, Chu

Absent: Chan

At the call of the Chair, referred to the Education, Outreach and Training Committee to work with the Police Department to make sure the records are

listed.

14. Annual report to the Board of Supervisors

Chair Craven asked members to review the report and forward suggestions and corrections to Chair Chu and the assistant administrator for consideration at the next Task Force meeting.

Moved to March 24, 2009, meeting Without objection

15. Report: Complaint Committee meeting of February 10, 2009

Committee Chair Nick Goldman gave the report. He said the committee would process all complaints.

Public Comment: None

16. Report: Education, Outreach and Training Committee's information gathering session on February 12, 2009.

Member Washburn made the report

Public Comment: Ray Hartz said the officer who showed up at the meeting had a cooperative attitude. He also said without Task Force pressure that was very little incentive for the department to follow the records law.

17. Report: Compliance and Amendments Committee: meeting of February 10, 2009

Chair Knee made the report. He also requested that the electronic records retention plan be put on the committee's next calendar.

Public Comment: Ray Hartz said the EOT and CAC should create a plan on how to present to the public the changes being made to the Ordinance that would make it more effective. He also suggested soliciting support from select groups to help pass the amendments.

18. Administrator's Report

Mr. Rustom made the report.

Chair Craven made changes to the Complaint Log. She also suggested that Chair Chu write a letter to Mr. Peter Witt to inform him of what the Task Force could and could not do, revisit the original complaint and explain what was said and what the commitments were. The second step, she said, was for Chair Chu, DCA Llorente and Mr. Rustom to meet Mr. Witt and see how to help move the issue forward.

Public Comment: Mr. Ray Hartz requested that all his filings with the Task Force in which he refers to himself as Anonymous be replaced with his name

so that departments can come before the Task Force and deal with the real issues. He also requested that the Task Force review the timesheet mentioned in #09004_Anonymous v CAO, DCA Matt Dorsey.

19. Public comment for items not listed on the agenda. Public comment shall be held at 5:00 p.m., or as soon thereafter as possible

Public Comment: Kimo Crossman said the Compliance and Amendments Committee needs to revisit the retention of electronic records issue. He said he has already sent a proposal to the committee on how to apply it to the Task Force. Francisco DeCosta said San Francisco is fortunate to have a group of people who deal with the freedom of information act and the privacy act. He said these volunteers come before various bodies and do their best to help those unable to or those who do not know their rights. But, he added, the Task Force also has to step up to the plate because the City Hall culprit is the City Attorney's Office. Ray Hartz said the Task Force should not take any action on a matter when it is obvious that members have not looked at or reviewed all relevant documents. He also said it was inappropriate to take the recommendation of DCAs when the complaint is against the City Attorney's Office.

20. Announcements, comments, questions, and future agenda items from the Task Force

Public Comment: None

Adjournment:

The meeting was adjourned at 6:10 p.m.

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

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