

Date: July 28, 2009

Item No. 17
File No. _____

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- Report: CAC meeting of July 14, 2009
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Completed by: Chris Rustom

Date: July 16, 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
COMPLIANCE AND AMENDMENTS COMMITTEE
DRAFT MEETING MINUTES
Tuesday, July 14, 2009
4:00 p.m., City Hall, Room 406**

Committee Members: Richard Knee (Chair), Erica Craven-Green, Doyle Johnson
Call to Order: 4:03 p.m.
Roll Call: Present: Knee, Craven-Green
Excused: Johnson
Deputy City Attorney: Ernie Llorente
Clerk: Chris Rustom
Agenda Changes: Item 8 heard before Item 7

1. Approval of June 9, 2009, regularly scheduled meeting minutes

Motion to approve the June 9, 2009, minutes (Craven-Green / Knee)

Public Comment: None

On the motion:

Ayes: Craven-Green, Knee

Excused: Johnson

2. 09003 Continued hearing on the status of the March 24, 2009, Order of Determination of Rita O'Flynn against the Department of Technology.

Complainant Rita O'Flynn said the emails between the Task Force, the Dept. of Technology and herself have established that she is entitled to the records she is seeking and that there is was a way to retrieve data that a department had deleted. She asked the Committee invoke Sec. 67.26 and order the department to retrieve the documents for free.

Respondent Barry Fraser said the Dept. of Technology has responded to the committee's request to provide Ms O'Flynn with a cost estimate and that he could not hand over raw data to the complainant because of confidentiality issues. He also reiterated that the department uses the data for emergency recovery purposes and that the Ordinance does not provide that it recover records that a certain employee

or department had deleted.

Member Craven-Green said the parties are at an impasse and suggested Ms. O'Flynn to ask for emails of a particular date and essentially reduce the cost for recovery. Ms. O'Flynn was also told that if she had brought the case against the Mayor's Office of Housing, the Task Force could have found and ordered MOH to produce the records at its own expense.

Chair Knee emphasized the need for both parties to work together.

No further action required.

Public Comment: None

3. 09018 Continued hearing on the status of the April 28, 2009, Order of Determination of Anonymous Tenants against the Department of Building Inspection.

Complainant Anonymous Tenants said the department has not followed the Order of Determination and has not produced the itemized cost analysis that allows them to charge \$6.50 for a page. An anonymous female speaker said DBI had promised the Task Force that they would provide the itemized cost analysis by July 1, 2009. That day, she said, has come and gone without any document being produced. The department should be ordered to produce the document, she added.

Respondent William Strawn of the Dep. of Building Inspection said his director revisited the fee schedule and decided to eliminate the \$6.50 fee, an action that the department conducts periodically. The department decided, he said, that they would not post the analysis on the website because they were not going ahead with the same fee rate.

Mr. Strawn also said he did not know how much the department was charging for a page, but agreed that he would provide justification if the charge was more than \$0.10 a page.

No motion was made.

Public Comment: None

Mr. Strawn did not rebut.

Anonymous Tenants said the new fee schedule posted by the department shows that it was charging \$0.15 a page.

Mr. Strawn said he was not aware that the new fee structure had been posted.

The committee suggested that Mr. Strawn email the Task Force the complete fee schedule and a detailed itemized of the cost if the amount is more than \$0.10.

Matter continued to August 11.

4. Developing recommendations for the proposed electronic document retention policy

of the Sunshine Ordinance Task Force.

Chair Knee recalled that Barry Fraser had said representatives of the Dept. of Technology were not able to attend today's meeting. He also said Kimo Crossman had contacted him and relayed his frustration over the delay in formulating a policy. He also said the Committee On Information Technology was not meeting this month.

Member Craven-Green suggested inviting Director of Operations Richard Robinson to make a presentation at the next committee meeting. Chair Knee agreed.

Item continued to next meeting.

5. A proposal to add to the amendments a provision prescribing disciplinary measures against any attorney in the City Attorney's Office who knowingly provides erroneous advice to a City official, employee or entity on an open-government-related matter.

Chair Knee said the need arises from the fact that many times a department or agency will refuse to produce a record on the advice of the City Attorney's Office. The CAO and the Task Force see issues differently especially when it comes to releasing electronic documents in its native format.

DCA Llorente questioned who would determine the state of mind of an attorney giving advice to a client agency, who would determine that there was a knowing violation, who would be the disciplining party and who would defend the attorney. The topic, he said, is fraught with problems. He was interested in hearing the opinions of First Amendment attorneys.

Member Craven-Green said another issue is that it would conflict with the Civil Service regulations. She said it was a very complex and heavily regulated area when it comes to disciplining a government employee. She suggested including it in Article IV, but that the final decision to produce or to not produce a record lies with the city agency and not the city attorney.

Public Comment: None

Chair Knee said the issue would be discussed at a later date.

6. Continued discussion on the proposed amendments and annotations to the Sunshine Ordinance.

Members discussed the document and made changes to Pages 6, 7, 26, 34 and 73. Member Craven-Green said she would make the suggested changes.

Chair Knee said he is expanding the committee's membership to five because a number of Task Force members have shown interest. He also intends to remain on the committee.

Public Comment: None

Item continued to August meeting.

7. Administrator's Report.

Mr. Rustom made the report

Public Comment: None

8. Public Comment on items not listed on the agenda; to be taken at 5:00 p.m. or as soon thereafter as possible.

Public Comment: None

9. Announcements, questions, and future agenda items from Committee members.

Chair Knee said former Ethics Commissioner Joe Lynn is out of the hospital and in good health.

Adjournment

The meeting adjourned at 5:15 p.m.

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