Date: Oct. 28, 2008

Item No. 13
File No.

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- ☒ **Administrators Report**
- ☐
- ☐
- ☐
- ☐
- ☐
- ☐
- ☐
- ☐
- ☐

Completed by: Chris Rustom **Date:** Oct. 23, 2008

***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

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

MEMORANDUM

Date: October 23, 2008

To: Sunshine Ordinance Task Force

From: Chris Rustom

Subject: Administrator's Report

1. Requests from community persons:
   - From Sept. 17, 2008, through October 21, 2008, the Task Force's office responded to approximately 316 calls/e-mails/office visits from individuals requesting information regarding the Sunshine Ordinance, or to mediate request for records.

2. 2008 - Complaint/Potential Complaint Logs

3. Referral Log

4. Communications Received Log

5. Letters to Board of Supervisors
   - #08031 Kimo Crossman v Ethics Commission
   - #08032 Kimo Crossman v City Attorney's Office

6. Orders of Determination
   - #08033 Charles Pitts v Department of Human Services
   - #08034 Thomas Picarello v Supervisor Jake McGoldrick
   - #08037 Kimo Crossman v Supervisor Aaron Peskin and Board of Supervisors
   - #08040 Eula Walters v Recreation and Parks Commission

7. Letter to Supervisor Ross Mirkarimi on issues related to section 67.14

8. Email describing Deputy City Attorney Ernie Llorente's discussion with Chief Attorney Therese Stewart on Task Force request

Complaints 2008

Date Received	Complainant	Department/Respondent	Status
1/3/2008	Kimo Crossman (08001)	District Attorney	Complaint Committee 2/12/08; Task Force 2/26/08 (No formal action taken)
1/7/2008	Hank Wilson (08002)	Public Health - HPPC	Complaint Committee 2/12/08 (Withdrawn: 2/6/08)
1/10/2008	Christian Holmer (08003)	Mayor's Office	Complaint Committee 2/12/08; Task Force 2/26/08 (Withdrawn: 2/22/08)
1/10/2008	Kimo Crossman (08004, 08005, 08007)	City Attorney	Complaint Committee 2/12/08; Task Force 2/26/08 contd.; 3/25/08 violation 67.21 (a), 67.21 (l), 67.24 (b) (l) (iii); CAC 4/9/08: Referred to Task Force; Task Force 4/22/08: Referred to Ethics (sent:5/13/08)
1/10/2008	Kimo Crossman (08005, 08004, 08007)	City Attorney	Complaint Committee 2/12/08; Task Force 2/26/08; 3/25/08 heard with 08004; CAC 4/9/08: Referred to Task Force; Task Force 4/22/08: Referred to Ethics (sent:5/13/08)
1/10/2008	Kimo Crossman (08006)	City Attorney	Complaint Committee 2/12/08; Task Force 2/26/08 contd; 3/25/08 violation of 67.26, 67.21 (l), 67.24 (b) (1) (iii); CAC 4/9/08: Referred to Task Force; Task Force 4/22/08: Referred to Ethics (sent:5/13/08)
1/10/2008	Kimo Crossman (08007, 08004, 08005)	City Attorney	Complaint Committee 2/12/08; Task Force 2/26/08; 3/25/08 heard with 08004; CAC 4/9/08: Referred to Task Force; Task Force 4/22/08: Referred to Ethics (sent:5/13/08)
1/14/2008	Stephen Worsley (08008)	Recreation and Park	Complaint Committee 2/12/08; Task Force 2/26/08 (No formal action taken)
2/9/2008	Patrick Monett-Shaw (08009)	Board of Supervisors	Complaint Committee 3/11/08 (Withdrawn: 2/26/08)
2/11/2008	Patrick Monett-Shaw (08010)	Dept. of Health	Task Force 3/25/08 (Withdrawn 3/15/08)
2/20/2008	David Waggoner (08011)	Ethics Commission	Complaint Committee 3/11/08; Task Force 3/25/08 (No formal action taken)
3/2/2008	Kimo Crossman (08012)	Clerk of th Board, SOTF Administrator	Task Force 3/25/08 (Withdrawn 3/14/08)
3/2/2008	Kimo Crossman (08013)	SOTF Administrator	Task Force 3/25/08 (Violation 67.21 (a)); CAC 4/9/08: Referred to Task Force; Task Force 4/22/08; 5/27/08 Referred to BOS (sent 06/13/08)

Complaints 2008

3/4/2008	Jason Berckart (08014)	Human Rights Commission???	Pending Clarification from Complainant
3/4/2008	Deniz Bolbol (08015)	SF Zoological Society	Task Force 3/25/08 (Violation 67.25)
3/7/2008	Anonymous (08016)	SF Arts Commission	Task Force 4/22/08 (Withdrawn 3/20/08)
3/17/2008	Kimo Crossman (08017)	Clerk of the Board, SOTF Administrator	Task Force 4/22/08 (No Violation)
3/17/2008	Kimo Crossman (08018)	Clerk of the Board, SOTF Administrator	Task Force 4/22/08 [Violation 67.21-1 (a)]; CAC 5/14/08 (No formal action taken)
4/8/2008	Kimo Crossman (08019)	Clerk of the Board, SOTF Administrator, DTIS	Task Force 4/22/08 (No Violation)
4/8/2008	Peter Witt (08020)	SF Taxi Commission	Task Force 4/22/08; 5/27/08 (Violation §67.15; 67.16)
5/2/2008	Kimo Crossman (08021)	City Attorney's Office	Task Force 5/27/08 (No violation)
5/2/2008	Kimo Crossman (08022)	Clerk of the Board	Task Force 5/27/08, 6/24/08; 7/22/08 [No action taken]
5/20/2008	Anonymous Tenants (08023)	Planning Department	Task Force 6/24/08; 7/22/08 [Violated 67.21 (b) & (c)]; CAC 8/13/08 9/10/08 (No action taken)
5/20/2008	Michael Addario (08024)	Arts Commission	Complaint 6/10/08, Task Force 6/24/08; 7/22/08 [Violated 67.5]; CAC 8/13/08; 9/10/08 (No Action Taken)
5/21/2008	Kimo Crossman (08025)	City Attorney	Task Force 6/24/08; 7/22/08 Withdrawn 6/27/08
5/21/2008	Kimo Crossman (08026)	City Attorney	Task Force 6/24/08; 7/22/08 Withdrawn 6/27/08
5/21/2008	Kimo Crossman (08027)	Mayor's Office of Criminal Justice	Task Force 6/24/08; 7/22/08; Withdrawn 8/21/08
5/21/2008	Kimo Crossman (08028)	City Attorney	Task Force 6/24/08; 7/22/08 Withdrawn 6/27/08
5/29/2008	Barry Taranto (08029)	Taxi Commission	Task Force 6/24/08; 7/22/08 [67.15 (c)]; CAC 8/13/08 No action taken
5/29/2008	Kimo Crossman (08030)	COB, SOTF Administrator	Complaint 8/12/08 (Withdrawn 8/11/08)
6/3/2008	Kimo Crossman (08031)	Ethics Commission	Task Force 7/22/08 [Violated 67.21 (1)]; CAC 8/13/08; 9/10/08; Task Force 9/23/08 Ltr sent to BOS, Ethics

Complaints 2008

6/4/2008	Kimo Crossman (08032)	City Attorney	Task Force 7/22/08 [Violated 67.21 (1), CPRA 6253.9 (a) & (b)]; CAC 8/13/08; TF 8/26/08; 9/23/08 Ltr sent to BOS, CAO
6/25/2008	Charles Pitts (08033)	Human Services	Complaint 9/9/08; Task Force 9/23/08 [No violation]
6/27/2008	Tomas Picarello (08034)	Supervisor Jake McGoldrick	Task Force 7/22/08; 8/26/08, 9/23/08 [No violation]
6/30/2008	Neils Welin (08035)	Municipal Transportation Agency	Complaint 8/12/08 (Withdrawn 7/14/08)
6/25/2008	Juan De Anza (08036)	Public Health	Complaint 8/12/08 (No Jurisdiction); Task Force 8/26/08 (Appeal Denied)
7/8/2008	Kimo Crossman (08037)	Supervisor Peskin	Task Force 8/26/08; 9/23/08 Violated 67.21 (e) & 67.24 (a) (ii), EOT 10/9/08 No action taken
7/28/2008	Kin Tso (08038)	Animal Control and Welfare Commission	Task Force 8/26/08, CAC 9/10/08 (No Action Taken)
7/30/2008	Allen Grossman (08039)	City Attorney	Task Force 8/26/08; 9/23/08, 10/28/08
30-Jul	Eula Walters (08040)	Recreation and Park Commission	Complaint 9/9/08; Task Force 9/23/08 [No violation]
8/1/2008	Kimo Crossman (08041)	DTIS, SFGTV	Task Force 8/26/08, Withdrawn 8/19/08
8/1/2008	Kimo Crossman (08042)	DTIS, SFGTV, City Administrator, Media Services, SOTF-A, COB	Complaint 9/9/08; Task Force 9/23/08, 10/28/08 (1st cont.), 11/25/08 (2nd cont.)
8/5/2008	Charles Pitts (08043)	SFPD	Task Force 8/26/08 (Withdrawn 8/11/08)
8/19/2008	Brian Browne (08044)	Building Inspection	Task Force 9/23/08, 10/28/08 Withdrawn 10/17/08
8/26/2008	Barry Taranto (08045)	MTA	Complaint Committee 10/14/08 Contd 11/11/08
8/26/2008	Karl Beale (08046)	Rec & Park, Library	Complaint Committee 10/14/08 Task Force 10/28/08
8/26/2008	Peter Witt (08047)	Taxi Commission	Task Force 10/28/08
8/26/2008	Anonymous Tenants (08048)	Building Inspection	Task Force 10/28/08
9/3/2008	John Caldera (08049)	Veteran Affairs Commission	Complaint Committee 10/14/08 No action taken

Potential Complaints 2008

Date	Name	Concerns	Status
2/6/2008	Navy Keo	San Jose Police Department allegedly failed to redact personal inforamtion.	Referred to San Jose City Clerk/Clerk of the Board
2/12/2008	sswang168@aol.com	Juvenile Probation Commission possibly not providing 72 hours notice.	Doesn't want a hearing.
4/1/2008	Christian Holmer	Mayor's Office allegedly not providing daily calendar	Complaint form sent: No Response
5/21/2008	Kimo Crossman	City Attorney	Withdrawn
5/21/2008	Kimo Crossman	District Attorney	Withdrawn
5/21/2008	Kimo Crossman	Controller	Withdrawn
6/13/2008	Peter Warfield	Library for untimely; not rolling, incomplete	Pending
6/13/2008	Peter Warfield	Library for untimely, incomplete, unhelpful	Pending
8/11/2008	Richard Midgen	BOS for Arlington Residence contract	Sent him to Human Services
8/20/2008	SF Bar Assoc	evictions in public housing	No jurisdiction
8/21/2008	Vince Courtney	Rec & Park over golf report	No response
9/2/2008	Vwilliam B Gray	Police Dept (Mission Station)	No response
10/17/2008	Charles Pitts	MOCJ (does not allow public comment)	awaiting onfirmation

Referral Log 2005-2008

Date Referred/Sent	Complainant	Department/Respondent	Status
1/25/2005 (Sent 1/31/05)	Cheryl Brinkman, Pat Christensen, Sue Vaughan (#05004)	Golden Gate Park Concourse Authority	Referred to Ethics Commission (EC#06-052104 Dismissed: 9/12/06)
9/26/2006 (Sent 11/3/06)	Robert Planthold (#06004)	Municipal Transportation Agency	Referred to District Attorney (No Response); Referral to Ethics Commission (EC#10-061108 Dismissed: 4/10/07)
4/24/2007 (Sent 5/17/07)	Kimo Crossman (07002-A & B)	Mayor's Office	Referred to Ethics Commission (EC#01-70528 dismissed 7/24/08 & 04-070801 dismissed 7/24/08) Referred to District Attorney (No Response) Referred to Attorney General [6/28/07 AG will not intervene: referred to EC]
6/26/2007 (Sent 7/30/2007)	Kimo Crossman (07009)	Mayor's Office	Referred to Board of Supervisors (No Response) Referred to Ethics Commission (EC#05-070808 dismissed 7/24/08) Referred to District Attorney (8/22/07 awaiting result of EC) Referred to Attorney General (No Response)
5/22/2007 (Sent 6/5/07)	Kimo Crossman (07011)	Sheriff's	Referred to the Board of Supervisors (No Response)
5/22/2007 (Sent 7/30/07)	Kimo Crossman (07023, 06025 & 06027)	Telecommunications and Information Services	Referred to Ethics Commission; (EC#02-070801 Dismissed: 1/16/08)
1/8/2008 (Sent 2/27/08)	Myrna Lim (07056)	Ethics Commission	Referred to Attorney General: Sent 2/27/08) [3/21/08 AG: Will not investigate...local matter.]
1/8/2008 (Sent 1/31/08)	Jeff Ente (07057)	Supervisor Aaron Peskin	Referred to Ethics Commission [04-080204 pending] Referred to Attorney General [3/24/08 AG: Will not investigate. referred to Ethics]
1/8/2008 (Sent 2/27/08)	Library Users Assoc. by Exec. Dir Peter Warfield (07061 & 07062)	Library	Referred to Attorney General [3/21/08 AG: Will not investigate... local matter.]
1/8/2008 (Sent 1/31/08)	Allen Grossman (07077)	District Attorney	Referred to Ethics Commission (EC#05-080204 pending) Referred to Attorney General [3/24/08 AG: Will not investigate. referred to Ethics]
3/25/2008 (Sent 4/24/08)	Dan Boreen (07080-A, B, & C)	Fire Department	Referred to Ethics Commission (EC#13-080424 pending)

Referral Log 2005-2008

3/25/2008 (Sent 4/24/08)	Allen Grossman (07087)	Mayor's Office	Referred to Ethics Commission (EC# 15-080424 pending)
3/25/2008 (Sent 4/24/08)	Kimo Crossman (07094)	City Attorney	Referred to Ethics Commission (EC#14-080424 pending)
4/22/2008 (Sent 5/13/08)	Kimo Crossman (07096)	Mayor's Office	Referred to Ethics Commission (EC#17-080513 pending)
4/22/2008 (Sent 5/13/08)	Kimo Crossman (08004, 08005, 08007)	City Attorney	Referred to Ethics Commission (EC#18-080513 pending)
4/22/2008 (Sent 5/13/08)	Kimo Crossman (08006)	City Attorney	Referred to Ethics Commission (EC#19-080513 pending)
5/27/2008 (Sent 6/13/08)	Kimo Crossman (08013)	SOTF-A	Referred to Board of Supervisors
9/23/2008 (Sent 10/6/2008)	Kimo Crossman (08031)	Ethics Commission	Referred to Board of Supervisors
9/23/2008 (Sent 10/7/2008)	Kimo Crossman (08032)	City Attorney's Office	Referred to Board of Supervisors

COMMUNICATIONS RECEIVED LOG

Sept 17 through Oct 21, 2008

	DATE	FROM	DESCRIPTION
1	17-Sep	Kimo Crossman	Palin email hacking
2	18-Sep	Christian Holmer	SFSM responses 2
3	18-Sep	Frank Darby	Digital audio 2
4	19-Sep	Sue Cauthen	Spur one-minute public comment
5	19-Sep	Kristin Chu	Spur one-minute public comment
6	19-Sep	Frank Darby	Public binders 2
7	19-Sep	Kimo Crossman	SOTF chair comments 3
8	20-Sep	James Chaffee	SOTF chair comments 2
9	20-Sep	Joe Lynn	SOTF chair comments 3
10	20-Sep	pmonett-shaw	SOTF chair comments
11	20-Sep	James Chaffee	Complaint against BOS 2
12	23-Sep	PRO-SF	Outstanding request
13	23-Sep	Kimo Crossman	CFPP letter
14	24-Sep	Allen Grossman	SOTF recording
15	24-Sep	Unknown	Public input
16	24-Sep	Mpetrelis	STD report
17	25-Sep	Christian Holmer	City Attorney employee list
18	25-Sep	Pamela Tebo	Charles Pitts IDR 4
19	25-Sep	Christian Holmer	SFSM records request 4
20	25-Sep	Christian Holmer	Transparency questionnaire 3
21	25-Sep	Charles Pitts	Response to IDR request 4
22	25-Sep	Frank Darby	Peter Witt complaint
23	26-Sep	Ray Hartz	Value of OD 7
24	26-Sep	Kimo Crossman	Value of OD 5
25	26-Sep	Joe Lynn	Value of OD 2
26	26-Sep	Kimo Crossman	Digital audio IDR 4
27	26-Sep	Frank Darby	Digital audio IDR 2
28	26-Sep	Richard Knee	Value of OD
29	26-Sep	Anonymous Tenants	Value of OD
30	27-Sep	Charles Pitts	Emergency request
31	30-Sep	Christian Holmer	Request from Mayor's Office 4
32	1-Oct	Hunter LLP	IDR to City Attorney's Office
33	7-Oct	Christian Holmer	Mayor's Prop G calendar request 3
34	6-Oct	Kimo Crossman	Request for EOT audio
35	2-Oct	Kimo Crossman	DTIS server response
36	8-Oct	Kimo Crossman	Unacceptable service
37	9-Oct	Kimo Crossman	SIA training
38	9-Oct	Christian Holmer	Public redords and press request 3
39	10-Oct	Allen Grossman	Requet for old records
40	17-Oct	B.Browne	IDR for PUC 2

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October 6, 2008

Honorable Board of Supervisors
City Hall, Room 244
No. 1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102.

Regarding: SOTF complaint #08031 Kimo Crossman v Ethics Commission

In this complaint, Mr. Kimo Crossman requested documents from the Ethics Commission to be copied in PDF format and forwarded to him by email. The discrete number of documents exist in hardcopy format and the Ethics Commission provided them to Mr. Crossman in hardcopy format.

The Task Force found that since the Ethics Commission has the technology to produce the documents in PDF (*i.e.* a copier that can either copy to paper or save as a PDF file on a local hard drive much like the one used by the Clerk of the Board) and they already needed to use that copier to produce the hardcopy documents, it was technologically and economically feasible to produce them in the electronic format requested. The Task Force found the Ethics Commission in violation of Section 67.21-1 of the Sunshine Ordinance.

The Task Force in their July 22, 2008 Order of Determination asked the Ethics Commission to produce the documents in PDF format within five business days. This would have consisted of putting the hardcopies into the copier and choosing an output of PDF. The Ethics Commission did not comply and we are now referring the matter to the Board of Supervisors for further proceedings or enforcement pursuant to Section 67.30 (c).

In December of 2006 the Board of Supervisors unanimously approved a policy (File no. 061418) directing the Clerk of the Board to provide documents to the public in the format requested. We believe that this issue will continue to be faced by other Departments, Board and Commissions and believe that the leadership of the Board on this issue is necessary to establish a reasonable Citywide policy that fulfills the mandate of Section 67.21-1. To that end, we request that the Board of Supervisors expand its policy regarding public access to records to include all departments, commissions and policy bodies. This would establish best practices for everyone working on the City's behalf and ensure a consistent response to requestors.

For your review we have attached:
(1) the copy of the complaint filed by Mr. Crossman (page 3),
(2) the Order of Determination issued on July 22, 2008 (page 11),
(3) the final minutes of the Task Force meeting of July 22, 2008 (page 13),
(4) the final minutes of the Compliance and Amendments Committee meeting of September 10, 2008 (page 25),
(5) draft minutes of the Task Force meeting for September 23, 2008. The final minutes will be forwarded upon approval (page 32).

If you need any further information, including tape recordings of any of the meetings referenced above, please feel free to contact me, or the Task Force Administrator at (415) 554-7724.

Kristin Chu
Chair, Sunshine Ordinance Task Force

cc: Honorable Supervisor Michela Alioto-Pier
Honorable Supervisor Tom Ammiano
Honorable Supervisor Carmen Chu
Honorable Supervisor Chris Daly
Honorable Supervisor Bevan Dufty
Honorable Supervisor Sean Elsbernd
Honorable Supervisor Sophie Maxwell
Honorable Supervisor Jake McGoldrick
Honorable Supervisor Ross Mirkarimi
Honorable Supervisor Aaron Peskin
Honorable Supervisor Gerardo Sandoval
Angela Calvillo, Clerk of the Board of Supervisors
Ernie Llorente, Deputy City Attorney
Kimo Crossman, Complainant
John St Croix, Executive Director, Ethics Commission
Commissioner Emi Gusukuma, Ethics Commission
Commissioner Eileen Hansen, Ethics Commission
Commissioner Susan J. Harriman, Ethics Commission
Commissioner Jamienne S. Studley, Ethics Commission
Commissioner Charles L. Ward, Ethics Commission

SUNSHINE ORDINANCE
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October 7, 2008

Honorable Board of Supervisors
City Hall, Room 244
No. 1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102.

Regarding: #08032 complaint of Kimo Crossman, and the August 4, 2008, Order of Determination from the Sunshine Ordinance Task Force against the City Attorney's Office for failure to comply with the Order of Determination.

At their regular meeting on September 23, 2008, the San Francisco Sunshine Ordinance Task Force ordered that the attached complaint #08032 of Kimo Crossman and the August 4, 2008 Task Force Order of Determination be referred to the Board of Supervisors for enforcement or further action.

The Task Force found that the Department violated Section 67.21 (l) of the Sunshine Ordinance and Section 6253.9 (a) (i) & (ii) of the California Public Records Act for failure to provide a copy of the requested document in Word format, as requested by the Complainant and in light of the City Attorney's office's regular use of the Word software format.

This request and referral is made under Section 67.30 (c) whereby the Task Force shall make referrals to a municipal office with enforcement power under the Sunshine Ordinance or under the California Public Records Act and the Brown Act whenever it concludes that any person has violated any provisions of this Ordinance or the Acts.

The referral is made to the Board of Supervisors as the underlying issue – whether a document should be provided in a specific requested electronic format (*e.g.*, Word, PDF, or Excel) if that format is used by the responding agency, absent a specific reason that would justify refusing to produce the document in the requested format – was recently addressed by the Clerk of the Board of Supervisors. After having been found in violation of the Sunshine Ordinance for refusing to produce a document in Word as requested, the Clerk of the Board gave due consideration to existing law and policy and agreed to produce requested documents in Word. As this issue is likely to be faced by other

Boards, Commissions and Departments in the future, the Task Force believes it would be appropriate for further review and potential enforcement by the Board of Supervisors.

Attached are:
1. the copy of the complaint filed by Mr. Crossman (page 3),
2. the Order of Determination issued on July 22, 2008 (page 6),
3. the final minutes of the Task Force meeting of July 22, 2008 (page 8),
4. the final minutes of the Compliance and Amendments Committee meeting of August 13, 2008 (page 20), and
5. the draft minutes of the Task Force meeting for September 23, 2008 (page 26). The final minutes will be forwarded upon approval.

If you need any further information, including tape recordings of any of the meetings referenced above, please feel free to contact me, or the Task Force Administrator at (415) 554-7724.

Kristin Chu, Chair
Sunshine Ordinance Task Force

cc: Honorable Supervisor Michela Alioto-Pier
Honorable Supervisor Tom Ammiano
Honorable Supervisor Carmen Chu
Honorable Supervisor Chris Daly
Honorable Supervisor Bevan Dufty
Honorable Supervisor Sean Elsbernd
Honorable Supervisor Sophie Maxwell
Honorable Supervisor Jake McGoldrick
Honorable Supervisor Ross Mirkarimi
Honorable Supervisor Aaron Peskin
Honorable Supervisor Gerardo Sandoval
Angela Calvillo, Clerk of the Board of Supervisors
Ernie Llorente, Deputy City Attorney
Kimo Crossman, Complainant
City Attorney Dennis Herrera

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ORDER OF DETERMINATION

October 2, 2008

DATE THE DECISION ISSUED
September 23, 2008

CHARLES PITTS v. THE DEPARTMENT OF HUMAN SERVICES (08033)

FACTS OF THE CASE

On June 10, 2008, Complainant Charles Pitts made an Immediate Disclosure Request to Dariush Kayhan of the Human Services Department. In that request, Charles Pitts requested all documents regarding the closing of Ella Hill Hutch Center, the copy of the contract of Ella Hill Hutch and the Next Door Center at 1001 Polk Street. On that same day, Pamela Tebo from the office of the Executive Director of Human Services sent a letter stating that under the provisions of section 67.28(c) of the Sunshine Ordinance the cost of copying the documents is 10 cents a page and the contract pages for both contracts are 50 pages each, so the total cost for copying the documents was at least $10.00. Ms. Tebo also suggested a viewing of the original documents and that Charles Pitts contact her to make arrangements.

COMPLAINT FILED

On June 19, 2008, Charles Pitts filed a complaint against the Department of Human Services alleging that the response to the IDR was not timely, that the Department "set up a wall" to impede release of information, and did not provide information on how and where to pay for copies of the records, violating sections 67.21 and 67.25 of the Ordinance.

HEARING ON THE COMPLAINT

On September 23, 2008, Complainant Charles Pitts appeared before the Task Force and presented his claim. The Department of Human Services was represented by Pamela Tebo, who presented the Department's defense.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the testimony and evidence presented the Task Force finds that the Department and Mr. Pitts are working toward obtaining the records. Specifically, the Department will let Mr. Pitts know how many pages of documents have been gathered and then give Mr. Pitts the option of either having all of the documents copied or setting up a time for Mr. Pitts to review the documents

ORDER OF DETERMINATION

DECISION AND ORDER OF DETERMINATION

The Complainant Charles Pitts was advised to work with the Department in identifying the specific records he wanted and the Department agreed to let Mr. Pitts know how many pages of documents had been gathered and then give Mr. Pitts the option of either having all of the documents copied or setting up a time for Mr. Pitts to review the documents. The Department was also asked to copy the Task Force administrator with the correspondence regarding this matter, including a list of the documents provided to Mr. Pitts

This Order of Determination was adopted by the Sunshine Ordinance Task Force on September 23, 2008, by the following vote: (Cauthen / Chan)
Ayes: Craven, Knee, Cauthen, Chu, Knoebber, Pilpel, Chan, Goldman
Noes: Washburn, Williams

Kristin Murphy Chu, Chair
Sunshine Ordinance Task Force

c: Ernie Llorente, Deputy City Attorney
Complaint Charles Pitts
Respondent Pamela Tebo

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ORDER OF DETERMINATION
October 2, 2008

DATE THE DECISION ISSUED
September 23, 2008

TOMAS PICARELLO v. SUPERVISOR JAKE McGOLDRICK (08034)

FACTS OF THE CASE

Complainant Tomas Picarello has attended the Board of Supervisor's Budget Committee hearings from June 8, 2008 to the present. During these hearings, Tomas Picarello observed that public comment was not allowed at each of the meetings discussing the 2008 budget, but instead was limited to and taken only at the June 19, 2008 meeting.

COMPLAINT FILED

On June 25, 2008, Tomas Picarello filed a complaint against Supervisor Jake McGoldrick alleging that Supervisor McGoldrick excluded public comment on budget items that had been discussed at the June 19, 2008 hearing, and then carried over to a later hearing.

HEARING ON THE COMPLAINT

On September 23, 2008, Complainant Thomas Picarello appeared before the Task Force and presented his claim. Supervisor McGoldrick was represented by his aide, Pooja Jhunjhunwala..

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the testimony and evidence presented the Task Force finds that the limiting of public comment on the budget meetings to the June 19, 2008 meeting did not violate section 67.15 of the Sunshine Ordinance or the Brown Act.

DECISION AND ORDER OF DETERMINATION

The Task Force finds that Supervisor McGoldrick did all that was required under the Sunshine Ordinance and noted that public comment on June 19, 2008, lasted eight hours.

ORDER OF DETERMINATION

This Order of Determination was adopted by the Sunshine Ordinance Task Force on September 23, 2008, by the following vote: (Goldman / Washburn)
Ayes: Craven, Knee, Cauthen, Washburn, Goldman, Chan
Noes: Knoebber, Williams
Recused: Chu
Absent: Pilpel

Kristin Murphy Chu, Chair
Sunshine Ordinance Task Force

c: Honorable Supervisor Jake McGoldrick
Thomas Picarello
Ernie Llorente, Deputy City Attorney

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

October 2, 2008

DATE THE DECISION ISSUED
September 23, 2008

KIMO CROSSMAN v. SUPERVISOR AARON PESKIN AND THE BOARD OF SUPERVISORS (08037)

FACTS OF THE CASE

Complainant Kimo Crossman viewed the Board of Supervisors' GAO Committee on 6/16/08 and saw that a contract agreement was amended at that time and forwarded on to the full Board of Supervisors for review and action on 6/24/08. Kimo Crossman advised David Noyola of Supervisor Aaron Peskin's office that under Section 67.24(a)(2) the 10-day rule for public review of the draft agreement requires that the hearing for approval be set later than 6/24/08. The contract was agendized for 6/24/08 and adopted by the BOS.

COMPLAINT FILED

On July 8, 2008 Complainant Kimo Crossman filed a complaint against Supervisor Peskin, President of the Board of Supervisors, and members of the Board of Supervisors for their alleged violation of Section 67.24(a)(2) of the Sunshine Ordinance by adoption of a contract agreement without providing 10 days for public review.

HEARING ON THE COMPLAINT

On September 23, 2008, Complainant Kimo Crossman appeared before the Task Force and presented his claim. Neither Supervisor Peskin nor a representative from the BOS attended.

The issue in the case is whether the Board of Supervisors violated Section 67.24 (a)(2) of the Ordinance.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the testimony and evidence presented the Task Force finds that Section 67.24(a)(2) was violated in this case by the adoption of the contract without providing 10 days for public review.

DECISION AND ORDER OF DETERMINATION

In addition to Section 67.24 (a)(2) the Task Force also finds that Supervisor Peskin violated Section 67.31(e) of the Sunshine Ordinance for not appearing before the Task Force. The matter is forwarded to the Education, Outreach and Training Committee for discussion on

ORDER OF DETERMINATION

appropriate training in order to avoid future violations. Supervisor Peskin, or a representative of his office, is requested to appear before the Committee on Thursday October 9 at 4 p.m.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on September 23, 2008, by the following vote: (Knee / Goldman)
Ayes: Craven, Knee, Chu, Washburn, Knoebber, Goldman, Williams
Noes: Pilpel
Absent: Cauthen
Excused: Chan

Kristin Murphy Chu
Chair, Sunshine Ordinance Task Force

c: Honorable Supervisor Michela Alioto-Pier
Honorable Supervisor Tom Ammiano
Honorable Supervisor Carmen Chu
Honorable Supervisor Chris Daly
Honorable Supervisor Bevan Dufty
Honorable Supervisor Sean Elsbernd
Honorable Supervisor Sophie Maxwell
Honorable Supervisor Jake McGoldrick
Honorable Supervisor Ross Mirkarimi
Honorable Supervisor Aaron Peskin
Honorable Supervisor Gerardo Sandoval
Kimo Crossman
Ernie Llorente, Deputy City Attorney

SUNSHINE ORDINANCE
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ORDER OF DETERMINATION

September 30, 2008

DATE THE DECISION ISSUED
September 23, 2008

EULA M. WALTERS v. RECREATION AND PARKS COMMISSION (08040)

FACTS OF THE CASE

Complainant Eula M. Walters regularly attends the Recreation and Parks Commission ("Commission") and is on the Commission's mailing list. Eula Walters states that she received the agenda for May and June meetings the afternoon before the Commission's meeting the following day. Eula Walters noticed that the May agenda had a section for discussion about a plaque for Ferry Park.

Eula Walters went to the meeting and the Commission voted down the proposal. When Eula Walters reviewed the June agenda she noticed that the plaque for Ferry Park was again on for discussion. At the June meeting, Ms. Walters spoke in opposition to the plaque. Following public comment, the item was tabled. When Eula Walters reviewed the July agenda, she noticed that the plaque for Ferry Park was again on for discussion. At the July meeting, Ms. Walters spoke in opposition to the plaque. After Ms. Walters spoke, the Commission heard from the woman who was being considered for the plaque. After discussions during the July meeting, the Commission voted to approve specific language and placement for the plaque.

COMPLAINT FILED

On July 29, 2008, Eula Walters filed a complaint alleging that the Commission violated Section 67.7 of the Ordinance for its failure to provide timely notice of the meetings, Section 67.15 regarding order of testimony, and Section 67.24 for its failure to provide information at the Commission hearing.

HEARING ON THE COMPLAINT

On September 23, 2008, Complainant Eula Walters appeared before the Task Force and presented her claim. Respondent Agency was represented by Recreation and Parks Commission Secretary Margaret McArthur who presented the Commission's defense.

ORDER OF DETERMINATION

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the testimony and evidence presented the Task Force finds that that Ms Walters did not present facts that would support a violation of Sections 67.7 and 67.9, as the Commission timely posted and mailed the notice and agenda for the meetings; Section 67.15 as the Commission was not obligated to hear from the proponent of the item before the opponent; or Section 67.24 as the Commission provided the information Ms. Walters' requested.

DECISION AND ORDER OF DETERMINATION

The Task Force finds that the agency did not violate the Sunshine Ordinance.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on September 23, 2008, by the following vote: (Pilpel / Cauthen)
Ayes: Craven, Knee, Cauthen, Washburn, Knoebber, Chu, Pilpel, Chan, Goldman, Williams

Kristin Murphy Chu, Chair
Sunshine Ordinance Task Force

c: Ernie Llorente, Deputy City Attorney
Complaint Eula Walters
Respondent Margaret McArthur

SUNSHINE ORDINANCE
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October 2, 2008

Supervisor Ross Mirkarimi
Board of Supervisors
City Hall, Room 244
San Francisco, CA 94102

Dear Supervisor Mirkarimi,

Thank you for your leadership and continued support of San Francisco's open government laws. Your continued efforts have been extremely appreciated by the Task Force.

I am writing today regarding your recent changes to section 67.14 of the Administrative Code that require every policy body, agency or department to record meetings and make the recording available. This discrete but significant measure will bring substantially more openness and accessibility to all aspects of our City government.

Unfortunately, through recent conversation with DTIS the Task Force has learned that your revisions to 67.14 have not and will not be implemented in the near future due to the failure of the Board of Supervisors to appropriate specific funding for the measure. Jack Chin, manager of SGTV, told the Task Force at our July meeting that DTIS has the technology to be able to record meetings, but does not have the staff to manage and post the files that will be created. Moreover, DTIS has no plans to implement the measure until specific funds are allocated by the Board. As you can imagine, this is very frustrating both to the Task Force and to members of the public. Even the Task Force's own Administrator has been told that there are no resources that would assist or allow him to post the digital recordings of the Task Force's meetings that are already being made on the City's website.

We hope that you'll be able to address this matter with the full Board and allocate funds to DTIS to accomplish the goals of the legislation or otherwise ensure that DTIS carries out its mandate.

Thank you for your attention to this matter. If I or the Task Force can be any assistance in moving this issue forward, please do not hesitate to contact me.

Sincerely,

Kristin Chu
Chair, Sunshine Ordinance Task Force

"Erica Craven"
<erica.craven@gmail.com>
10/02/2008 03:11 PM

To "Ernest Llorente" <Ernest.Llorente@sfgov.org>
cc kristin@chu.com, SOTF <sotf@sfgov.org>
bcc
Subject Re: Meeting with Theresa?

Chris, can you include this email from Ernie in the SOTF Sunshine correspondence file? Thanks. Erica.

On 10/2/08, Ernest Llorente <Ernest.Llorente@sfgov.org> wrote:
> Dear Kristin and Erica,
> Yesterday, I spent time with Chief Attorney Therese Stewart discussing the
> Task Force request for a written analysis of the enforcement powers of the
> Ethics Commission and the relationship between the Task Force and the
> Ethics Commission based on the City Charter, the Sunshine Ordinance and the
> Ethics Commission's operating rules and regulations.
>
> Based on this discussion, I can report that I will not be providing a
> written analysis for two reasons. The first reason is that there are no
> existing statutory sections or internal rules of the Ethics Commission that
> specifically govern the relationship of the Task Force and the Ethics
> Commission and the referrals made by the Task Force to the Ethics
> Commission - where the Task Force has made findings of Willful Failure to
> comply with the Public Records or Public Meeting laws that amount to
> Official Misconduct.
>
> It is my belief that the Ethics Commission would be open to
> recommendations from the Task Force on how it should evaluate the findings
> made by the Task Force. I would suggest that the Education, Outreach and
> Training Committee review the referrals made to the Ethics Commission in
> the last one or two years and see if there is a pattern of violations by a
> particular Department or Department Head. The EOT should see if there were
> reasons why the Department or Department Head did not release the
> documents. The point here is to determine if the "Willful Failure" to
> comply with the Ordinance was due to stated knowledge of the ordinance and
> a willful failure to comply without a reasonable basis for noncompliance.
> If the Department or Department Head had a reason a policy needs to be
> determined as to whether the Willfulness rises to the level of Official
> Misconduct. The simple violation of the Ordinance without the
> consideration of the factors behind the nondisclosure would make every
> violation Official Misconduct. That would be a strict liability standard
> for deciding cases. If the Task Force is selective as to which cases it
> sends to the Ethics Commission and has a stated policy that the Ethics
> Commission can accept as to the level of wilfulness that rises to Official
> Misconduct, then the Task Force and the Ethics Commission can have a better
> working relationship. I believe a development of this policy would be
> helpful in fostering a working relationship with the Ethics Commission. I
> would of course be of assistance to the EOT in the development of this
> policy if you need it.
>
> The second reason why I cannot provide you with a written analysis is
> because of the budget problems in my office as reflected in City Attorney
> Dennis Herrera's letter of September 24, 2008. Even though Section 67.30
> of the Ordinance states that the Deputy City Attorney assigned to the Task
> Force shall serve solely as a legal advisor and advocate to the Task Force,
> the reality is that only 25% of my billable hours are to be spent on
> Sunshine Task Force business. Given the directive of my boss, requests for
> written legal analysis have to be carefully considered by myself and my

> supervising attorney. In this particular case, since the Ethics Commission
> in my opinion would be receptive to recommendations from the Task Force,
> there is no need to provide an analysis which would be a basis for a letter
> to convince the Ethics Commission to work with the Task Force. Currently,
> I have billable hours reports for the months of July and August which
> reflect that 30 hours of my time was spent on Task Force business. The
> allocated time for the fiscal year is 350 hours and that breaks down to 29
> hours a month. If there are an enormous amount of cases or other matters,
> I will need to discuss how you would want me to allocate my time.
>
> Regarding having the Ethics Commission provide more information on the
> decisions it has made on referrals, I would suggest a letter to the
> Commission and all of its member requesting same.
>
> Regarding the request for a meeting with you and with my supervising
> attorney, since I have discussed the issues with her at length and I have
> received her thoughts on the issues, the feeling is that a meeting with her
> would not be necessary.   I hope that I have addressed the issues of
> concern to you.
>
> Please contact me if you have any questions.
>
>
> Ernest H. Llorente
> Deputy City Attorney
> Tel: (415) 554-4236
> Fax: (415) 437-4644
>
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>
>
> "Kristin Murphy Chu" <kristin@chu.com>
> 09/29/2008 12:52 PM
> To <Ernest.llorente@sfgov.org>
> cc <erica.craven@gmail.com>
> Subject Meeting with Theresa?
>
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>
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>
>
>
> Ernie -
>
> What is the status of a meeting with Theresa? What is the status of the
> analysis the TF has requested?
>
> Thank you! Kristin