

Date: Dec. 1, 2009

Item No. 29

File No. _____

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- Administrator's Report.**
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Completed by: Chris Rustom

Date: Nov. 24, 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**



City Hall
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San Francisco 94102-4689
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MEMORANDUM

TO: Sunshine Ordinance Task Force

DATE: November 24, 2009

SUBJECT: Administrator's Report

1. Requests from community persons:

From October 21, 2009 through November 24, 2009, the Task Force's office responded to approximately 472 calls/e-mails/office visits from persons requesting information regarding the Sunshine Ordinance, or to mediate request for records.

2. 2009 – Complaint Log.

3. Communications Received Log

4. Orders of Determination:

- #09051_Marilyn Mollinedo v Zoological Society
- #09056_Peter Warfield v Clerk of the Board of Supervisors
- #09057_Peter Warfield v Clerk of the Board of Supervisors

Complaints 2009

Date Received	Complainant	Department/Respondent	Status
1/5/2009	Ray Hartz (09001)	City Attorney's Office (Matt Dorsey)	Complaint 2/10/09, Task Force 02/24/09, Contd. 03/24/09, Withdrawn 3/24/09
1/6/2009	Michael Petrelli (09002)	Public Health STD Unit	Task Force 1/27/09, No violation
1/19/2009	Rita O'Flynn (09003)	Dept of Technology	Task Force 02/24/09, continued, Complaint Committee 3/10/09, Task Force 3/24/09, Violated 67.21-1 and CPRA 6253.9, CAC 5/12/09, Contd 6/9/09, 7/14/09, No further action
1/23/2009	Ray Hartz (09004)	City Attorney, Matt Dorsey	Task Force 2/24/09, No action taken, petition for reconsideration denied 3/24/09.
1/23/2009	Steve Lawrence (09005)	Public Utilities Commission	Task Force 2/24/09; Withdrawn 2/9/09
1/26/2009	Joshua Arce & Eric Brooks (09006)	Public Utilities Commission	Task Force 2/24/09, quantum loss, Task Force 3/24/09, violated 67.29-7, CAC 5/12/09, Task Force 5/26/09, EC referral failed
1/30/2009	David Larkin (09007)	Public Works	Complaint 03/19/09, Task Force 3/24/09, 4/28/09, Violated 67.21, CAC 5/12/09, Task Force 5/26/09, Referred to EC
2/4/2009	Ray Hartz (09008)	Police Commission	Task Force 2/24/09, violated 67.29 & 67.21(e), EOT 4/9/09, SOTF 6/23/09, 8/25/2009, 9/22/2009, No further action, EOT to review every few months
2/9/2009	Charles Pitts (09009)	Health Dept	Complaint 03/19/09, Task Force 3/24/09, Violated 67.21 (e)
2/20/2009	Ray Hartz (09010)	Arts Commission	Task Force 3/24/09, EOT 4/9/09, No further action
2/23/2009	Ray Hartz (09011)	City Attorney's Office (Matt Dorsey)	Task Force 3/24/09, Withdrawn 3/24/09
2/23/2009	Ray Hartz (09012)	Office of Citizen Complaints	Complaint 4/14/09, Withdrawn 3/24/09
2/27/2009	Steve Lawrence (09013)	Public Utilities Commission	Task Force 3/24/09, 4/28/09, violated 67.21 (b), EOT 5/14/09, 6/11/09
3/18/2009	Ahimsa Porter Sumchai (09014)	Board of Supervisors	Task Force 4/28/09, Contd 5/26/09, No violation
3/18/2009	Raymond Bank (09015)	SF HIV Health Services Planning Council	Complaint Committee 4/14/09, Task Force 4/28/09, violated 67.21 (b), EOT 5/14/09, 6/11/09, No further action
3/23/2009	Peter Green (09016)	Public Health	Task Force 4/28/09, Contd 5/26/09, No violation
23-Mar	SORE (09017)	Public Utilities Commission	Task Force 4/28/09, violated 67.21 (b), EOT 5/14/09, No further action
3/27/2009	Anonymous Tenants (09018)	Dept of Bldg Inspection	Complaint Committee 4/14/09, Task Force 4/28/09, Violated 67.28, CAC 5/12/09, Contd 7/14/09, No further action
4/3/2009	Christian Holmer (09019)	Board of Supervisors (COB & SOTF)	Task Force 5/26/09, Withdrawn
4/7/2009	Anonymous (09020)	MTA	Task Force 5/26/09, No violation
4/23/2009	SORE (09021)	Public Utilities Commission	Task Force 5/26/09, Violated 67.21, CAC 6/9/09
5/13/2009	Raymond Banks (09022)	SF HIV Health Services Planning Council	Task Force 5/26/09, No violation
5/13/2009	SORE (09023)	Public Utilities Commission	Task Force 5/26/09, No violation
5/15/2009	Paul Weston (09024)	Human Services	Complaint 6/9/09, Task Force 6/23/09, violated 67.25 (a)
5/15/2009	Charles Pitts (09025)	Human Services	Task Force 6/23/09, 7/28/09, violated 67.25, No further action
5/18/2009	Hanna Leung & Lydia Fong (09026)	Human Services	Complaint 6/9/09, Task Force 6/23/09, 7/28/09, No further action

Complaints 2009

5/18/2009	Alvin Xex (09027)	Office of Economic and Workforce Development	Complaint 6/9/09, Task Force 6/23/09, violated 67.21 (b), EOT 7/9/09, No further action
5/18/2009	Alvin Xex (09028)	Dept. of Human Resources	Complaint 6/9/09, Task Force 6/23/09, No violation
5/20/2009	Paul Weston (09029)	Human Services (St Vincent de Paul Society)	Task Force 6/23/09, No violation
6/8/2009	Ann Grogan (09030)	Police Commission	Complaint 7/14/09; Task Force 7/28/2009, violated 67.21, EOT, 9/10/09, 10/8/09, Tabled
6/3/2009	Kenneth Kinnard (09031)	Human Rights Commission	Complaint 7/14/09; Cont requested 8/11/09, TF 8/25/2009, violated 67.21, 67.25, CAC 9/8/2009, 10/13/09, Tabled.
6/18/2009	Dominic Maionchi (09032)	Park and Recreation	Task Force 7/28/09, violated 67.27, 67.24 (1), CAC 9/8/2009, No further action
6/23/2009	Sue Cauthen (09033)	Library Commission	Task Force 7/28/09, violated 67.15 (a) and 67.34, EOT 9/10, CAC 10/13/09, Task Force 10/27/2009, Contd 10/24/2009
6/23/2009	Brian Tomina (09034)	Bldg Inspection	Complaint 7/14/09; Task Force 7/28/09, No violation.
7/14/2009	Dave Schneider (09035)	COB, BOS	Task Force 8/25/2009, No further action
7/14/2009	Bridgid (09036)	Police Dept	Task Force 8/25/2009, violated 67.21 (a), 67.24(g), 67.27, EOT 9/10/09, No further action
7/14/2009	Ging Louie (09037)	SFPUC	Task Force 8/25/2009, Withdrawn 8/14/09
7/17/2009	Anmarie Mabbutt (09038)	Rec & Park	Complaint 8/11/2009; Task Force 8/25/2009, violated 67.21, CAC 9/8/2009, 10/13/2009, No further action
7/20/2009	Rita O'Flynn (09039)	Mayor's Office of Housing	Task Force 8/25/2009, 9/22/2009, violated 67.21, 67.29-7 (a), CAC 10/13/2009, contd 11/10/2009, 12/8/2009
7/22/2009	Hanna Leung & Lydia Fong (09040)	Human Services	Task Force 8/25/2009, 9/22/2009, Withdrawn
7/28/2009	Anna Mabbutt (09041)	Mayor's Office	Task Force 8/25/2009, Withdrawn 8/22/2009
8/11/2009	Peter Warfield (09042)	Public Library	Task Force 8/25/2009, violated 67.21, CAC 9/8/09, Task Force 09/22/2009, CAC 10/13/2009, Task Force 10/27/09, referred to EC for violation of 67.21 (e)
8/11/2009	Peter Warfield (09043)	Library Commission	Task Force 8/25/2009, 9/22/2009, No further action
8/11/2009	Peter Warfield (09044)	Board of Appeals	Task Force 8/25/2009, violated 67.1(g), 67.21, CAC 9/8/2009, 10/13/09, Task Force 10/27/2009, contd 11/24/2009
8/11/2009	Peter Warfield (09045)	Board of Appeals	Task Force 8/25/2009, No further action
8/14/2009	Randal Evans (09046)	Elia Hill Hutch Community Center	Task Force 9/22/2009, CAC 10/13/2009, 11/10/2009, Withdrawn
8/14/2009	Dominic Maionchi (09047)	Park and Recreation	Task Force 9/22/2009, withdrawn
8/14/2009	Brian Tomina (09048)	Bldg Inspection	Task Force 9/22/2009, withdrawn
8/17/2009	Randall Evans (09049)	Public Defender (MoMagic)	Task Force 9/22/2009, withdrawn
8/17/2009	Randall Evans (09050)	African American Art and Culture Complex	Task Force 9/22/2009, violated 67.21, CAC 10/13/2009, Tabled
8/20/2009	Marilyn Mollinedo (09051)	Zoological Society	Complaint Committee 10/13/2009, Task Force 10/27/2009, CAC 11/10/2009 CAC 11/10/2009, Contd 12/8/2009
9/2/2009	Charles Pitts (09052)	Shelter Monitoring Committee	Task Force 9/22/09, violated 67.15 (d), EOT 10/08/2009, No further action
9/3/2009	Lou Dillon (09053)	Recreation and Park	Task Force 9/22/09, Contd 10/27/2009, No violation
9/8/2009	Robert Garcia (09054)	Entertainment Commission	Complaint Committee 10/13/09, Withdrawn 10/13/2009

Complaints 2009

9/9/2009	Peter Warfield (09055)	Public Library	Task Force 9/22/09, No further action
9/9/2009	Peter Warfield (09056)	Clerk of the Board	Task Force 9/22/09, Contd 10/27/2009, CAC 11/10/2009, No further action
9/9/2009	Peter Warfield (09057)	Clerk of the Board	Task Force 9/22/09, Contd 10/27/2009, CAC 11/10/2009, Contd 12/8/2009
9/11/2009	Anmarie Mabbutt (09058)	Clerk of the Board	Task Force 10/27/09, Withdrawn 10/23/09
9/11/2009	Anmarie Mabbutt (09059)	Clerk of the Board	Task Force 10/27/09, Withdrawn 10/23/09
9/11/2009	Anmarie Mabbutt (09060)	Clerk of the Board	Task Force 10/27/09, Withdrawn 10/23/09
9/22/2009	Alvin Xex (09051)	Human Services Agency	Task Force 10/27/09, No violation
10/2/2009	Debra Benedict (09052)	Public Health	Task Force 10/27/09, No further action
10/5/2009	Alvin Xex (09053)	Human Services Agency	Task Force 10/27/09, Tabled
10/6/2009	Alvin Xex (09054)	Economic Opportunity Council of San Francisco	Task Force 10/27/09, No further action
10/7/2009	Charles Pitts (09055)	Local Homeless Coordinating Board	Task Force 11/24/2009
10/7/2009	Emil Lawrence (09056)	Municipal Transportation Agency	Complaint 11/10/2009, no jurisdiction
10/13/2009	Library Users Association (09057)	Historic Preservation Commission	Task Force 11/24/2009
10/14/2009	Brent Piater (09058)	Recreation and Park	Task Force 11/24/2009, Withdrawn 11/13/2009
10/14/2009	Asian Law Caucus (09059)	Mayor's Office	Task Force 11/24/2009
10/21/2009	Anmarie Mabbutt (09070)	Recreation and Park	Task Force 11/24/2009
10/21/2009	Anmarie Mabbutt (09071)	Recreation and Park	Task Force 11/24/2009
10/23/2009	Anmarie Mabbutt (09072)	Clerk of the Board	Task Force 11/24/2009
10/23/2009	Anmarie Mabbutt (09073)	Clerk of the Board	Task Force 11/24/2009
10/27/2009	Kimo Crossman (09074)	Ethics Commission	Task Force 11/24/2009
10/29/2009	Brad Starr (09075)	City Attorney's Office, Jack Song	Task Force 12/8/2009
11/2/2009	Anmarie Mabbutt (09076)	Mayor's Office	Task Force 11/24/2009
11/6/2009	Raymond Banks (09077)	Public Health	Complaint Committee 12/8/2009

COMMUNICATIONS RECEIVED LOG

Oct 21, 2009, through Nov 24, 2009

	DATE	FROM	DESCRIPTION	
1	10/25/2009	mpetrelis	Various issues	8
2	10/26/2009	Dr. Sumchai	Sophie's calendar	
3	10/27/2009	Anmarie Mabbutt	Rec & Park correspondence	44
4	10/27/2009	SF Bay Guardian	Editorials	15
5	10/29/2009	Rita O'Flynn	Document disclosure	10
6	10/28/2009	Sue Blackman	Documents ready	2
7	10/29/2009	Kimo Crossman	SFBG editorial	
8	10/29/2009	Oliver Hack	Rita O'Flynn response	
9	10/30/2009	Kimo Crossman	Digital recordings	
10	11/1/2009	Surina Piyadesa	Non-profit requirements	
11	11/4/2009	Dr. Sumchai	Shipyards transfer	2
12	11/4/2009	Olive Gong	Response to Anmarie Mabbutt	7
13	11/5/2009	First Amendment	News	
14	11/5/2009	Kimo Crossman	Non-profit issues	
15	11/5/2009	Kimo Crossman	IDR to SOTF	
16	11/5/2009	Kimo Crossman	Redactions	
17	11/5/2009	Dr. Sumchai	Sunshine notice	
18	11/6/2009	Kimo Crossman	Contact information	6
19	11/10/2009	RGBaldwin	Missing minutes	
20	11/12/2009	Douglas Shoemaker	Meglar emails	
21	11/13/2009	Sup. Mirkarimi	D5 newsletter	
22	11/18/2009	Melvin Banks	HIV data	5
23	11/18/2009	Bill Blum	HIV data	4
24	11/18/2009	Staci White	Summer camp permits	
25	11/18/2009	Dana Ketcham	Summer camp permits	
26	11/18/2009	Ethics Commission	Sunshine declarations	
27	11/19/2009	William Strawn	Permit application	
28	11/20/2009	Katharine Petrucione	Rec & Park fee	
29	11/22/2009	dc250	Juvi Commission meetings	

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ORDER OF DETERMINATION
November 3, 2009

DATE THE DECISION ISSUED

October 27, 2009

MARILYN MOLLINEDO V. ZOOLOGICAL SOCIETY (09051)

FACTS OF THE CASE

Complainant Marilyn Mollinedo alleges that on or about July 27, 2009 she submitted a public records request to the Zoological Society ("ZS") for a number of categories of records. Ms. Mollinedo further alleges that the ZS refused to provide documents in response to her request for agendas and minutes of the Zoological Society's Executive Board meetings for the period of September 1, 2008 until July 27, 2009. Complainant further alleges that the ZS, while admitting that its lease and management agreement with the City requires compliance with some aspects of public records laws, claims that their lease does not require production of the agendas and minutes of their Executive Boards meetings, and the ZS therefore is not legally required to produce them. Ms. Mollinedo further alleges that the ZS previously has publicly committed to the Task Force to comply with all aspects of public records and meeting laws, but has not lived up to that commitment.

COMPLAINT FILED

On August 14, 2009, Ms. Mollinedo filed a complaint against the Zoological Society alleging violations of public records laws for failure to provide agendas and minutes of the Executive Committee meetings.

HEARING ON THE COMPLAINT

On October 27, 2009, Complainant Marilyn Mollinedo appeared before the Task Force and presented her claim. Respondent Agency was represented by Edward Pool, a member of the Zoological Society's Board of Directors.

Ms. Mollinedo told the Task Force that, under the Society's bylaws, the Executive

Committee is authorized to act as the Board of Directors ("Board") when the Board does not have a meeting scheduled and that it otherwise has the same powers as the Board. She therefore argued that the Executive Committee must be considered a "policy body" under the Sunshine Ordinance. She said if the Board of Directors minutes are public records, so must the Executive Committee's minutes. The lease agreement states that the Society will create minutes for the Executive Committee and in turn make such minutes available as a public record. She added the Society receives more than \$4 million annually from the City and that they should visit the Internal Revenue rules regarding non-profits because they stand to lose their status if they refuse to create minutes of their meetings in response to the determination of the Task Force in response to her complaint. Ms. Mollinedo also noted that the ZS had publicly agreed that it was bound by and would comply with the requirements of the Sunshine Ordinance.

Mr. Pool, for his part, said that the Society is in full agreement with the lease agreement. The Society believes that the lease agreement requires minutes to be made public only with regard to the Board and the Joint Zoo Committee. The Joint Zoo Committee has open meetings which are noticed to the public. He said the Society has one open meeting a year and it is also noticed to the public. All documents related to the joint committee are available to the public, he added. Further, the Society believes that they are not required to comply with any provisions of the Sunshine Ordinance because their original lease was signed prior to enactment of that ordinance. The Society's position is that finding them in violation of the Sunshine Ordinance would amount to an illegal amendment of their lease and make the City in violation of that agreement.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Task Force considered the parties' arguments and further considered the actual language of the lease. The Society's lease includes the following provision:

16.2 Public Access to Records and Information. [The Society] shall provide public access to information concerning the operation of the Zoo to the same extent that such information would have been available to the public pursuant to local ordinances if the Department [of Recreation and Parks] had continued to operate the Zoo in the same manner as it did prior to the date of this Agreement. In addition, the Zoo shall comply with all state and federal laws, rules and regulations that govern access by the public to records and information, including without limitation the California Public Records Act. . . . **Without limiting the foregoing**, the Zoo further agrees that (a) minutes shall be taken at each meeting of its Board of Directors, and that they minutes of those meetings shall be considered public documents available for public inspection in accordance with the Public Records Act, and (b) all information house

or cared for at the Zoo shall be deemed public information subject to public inspection under the Public Records Act. [emphasis added]

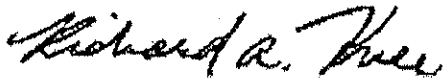
Based on the testimony and evidence presented the Task Force finds that the Society has agreed through its lease to be bound by local and state public records laws in effect at the time that any complaint against it is filed. The Task Force further finds that the Society itself has previously taken the very same position in hearings before the task force on previous complaints against it. Under the lease, all "information concerning the operation of the Zoo" maintained by the Society therefore is a public record to the same extent it would be if the Department were now operating the Zoo. Based on these preliminary findings, the Task Force finds that the agendas and minutes of the meetings of the Executive Board of the Society must be released to the public because they are public records under the terms of the lease.

DECISION AND ORDER OF DETERMINATION

The Task Force finds that the agency violated Section 67.21 of the Sunshine Ordinance for failing to produce requested agendas and minutes which pursuant to the Zoological Society's lease agreement are public records that must be released. This order is consistent not only with the lease terms, and prior Orders of Determination of the Task Force, but also with past admissions of the Zoological Society that they are required to comply with the Sunshine Ordinance requirements with respect to public records.

The agency shall release the agendas and minutes requested within five business days of the issuance of this Order and appear before the Compliance and Amendments Committee on Tuesday November 10, 2009.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on October 27, 2009, by the following vote: (Craven-Green / Knoebber)
Ayes:, Craven-Green, Cauthen, Washburn, Knoebber, Johnson, Chu, Knee
Excused: Manneh, Chan, Goldman, Williams



Richard Knee, Chair
Sunshine Ordinance Task Force

c: Jerry Threet, Deputy City Attorney
Marilyn Mollinedo complaint
Edward Pool, respondent



ORDER OF DETERMINATION
November 3, 2009

DATE THE DECISION ISSUED

October 27, 2009

PETER WARFIELD v. CLERK OF THE BOARD OF SUPERVISORS (09056)

FACTS OF THE CASE

Complainant Peter Warfield alleges that he requested information from the Clerk of the Board of Supervisors (the "Clerk") concerning support and opposition letters related to legislation being considered by the Board of Supervisors ("BOS"). He further alleges that the Deputy Clerk provided documents responsive to the request, but that information regarding the sender of the correspondence (e.g., home addresses, email addresses, phone numbers), had been redacted. He further alleges that the Clerk failed to provide written justification for withholding this information.

COMPLAINT FILED

On September 9, 2009, Mr. Warfield filed a Complaint against the Clerk for alleged violations of Sections 67.21(a) & (b), 67.26 and 67.27 of the Sunshine Ordinance.

HEARING ON THE COMPLAINT

On October 27, 2009, Complainant Peter Warfield appeared before the Task Force and presented his claim. Rick Caldera, Legislative Deputy Director in the Clerk's Office presented the agency's defense.

Mr. Warfield said the law permits redaction of only certain types of information, which are specified in the Brown Act, the California Public Records Act and the Sunshine Ordinance. The law does not allow the redaction of personal contact information, he said.

Mr. Caldera, said staff has been redacting according to the Clerk's policy, which was under review, and that an update is expected within the next month. He said the reason

~~for the current policy was that personal information has a privacy dimension and citizens should not have to give up their privacy to serve or contact the government.~~

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Task Force noted that it has consistently ruled that -- unless a member of the public requests anonymity, is a whistleblower or could otherwise face retribution if his/her name and contact information were known -- the names and contact information for members of the public submitting public testimony are a matter of public record and should be released upon request.

For example, in the Task Force's March 31, 2008 Order of Determination in the KIMO CROSSMAN v. SOTF ADMINISTRATOR (08013) complaint, the Task Force held that the Task Force Administrator was not justified in redacting personal email addresses from correspondence submitted to the Sunshine Ordinance Task Force. Specifically, the Task Force ruled as follows:

Based on prior Orders of Determination where the Task Force found that e-mail addresses are, in the absence of particular circumstances showing that the submitter has a need for confidentiality (*i.e.*, a whistleblower, anonymous request) e-mail addresses are generally not exempt from disclosure under the Sunshine Ordinance. See, *e.g.* 07008 ordering release of e-mail addresses; see also *Holman v. Superior Court*, 31 Med. Law Reporter 1993, 2003 Cal. App. Unpub. Lexis 6512 (2003) (unpublished) (ordering release of email addresses contained in government records); *cf.* Cal. Govt. Code § 6254.3 (specifically exempting only home address and telephone numbers of state employees from disclosure under CPRA).

The Task Force finds the case law regarding protection of privacy cited by the Administrator to be factually inapposite and that there is, generally and except for limited factual circumstances indicated above, no reasonable expectation of privacy in e-mail addresses contained in governmental records.

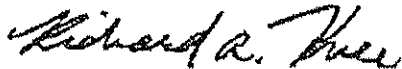
In this case, there is no credible indication that individuals submitting letters in support of or in opposition to legislation -- who include in their submittals their personal contact information and who do not request confidentiality -- have a reasonable expectation that their contact information will remain private and not be seen by members of the legislative body or members of the public.

DECISION AND ORDER OF DETERMINATION

The Task Force finds that the Clerk of the Board of Supervisors violated Section(s) 67.21 (a) and 67.21 (g) for failure to produce public information and not explaining the

reason for its refusal. That violation restricted Mr. Warfield's ability to note the names and contact information for individuals and entities who submitted public testimony to the Clerk. The Clerk's Office is directed to produce unredacted copies of the records requested by Mr. Warfield within 5 calendar days of this Order of Determination, and appear before the Compliance and Amendments Committee on November 10, 2009, to discuss compliance with this Order of Determination.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on October 27, 2009, by the following vote: (Washburn / Cauthen)
Ayes: Craven-Green, Cauthen, Washburn, Knoebber, Johnson, Chu, Chan, Knee
Excused: Manneh, Goldman, Williams



Richard A. Knee, Chair, Chair
Sunshine Ordinance Task Force

c: Jerry Threet, Deputy City Attorney
Peter Warfield, Complainant
Rick Caldera, Respondent

**SUNSHINE ORDINANCE
TASK FORCE**



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ORDER OF DETERMINATION
November 3, 2009

DATE THE DECISION ISSUED
October 27, 2009

PETER WARFIELD v. CLERK OF THE BOARD OF SUPERVISORS (09057)

FACTS OF THE CASE

Complainant Peter Warfield alleges that he requested information from the Clerk of the Board of Supervisors (the "Clerk") concerning the current membership of the Library Citizen Advisory Committee ("LCAC"). He further alleges that the Deputy Clerk requested that he return in about three hours to allow the clerk's office time to redact documents responsive to the request, causing a delay in his ability to review the remainder of the file. Mr. Warfield alleges that he then requested only the two-page current membership roster, which was promptly provided with redaction of contact information of the LCAC members, without explanation of the justification for withholding that information.

COMPLAINT FILED

On September 9, 2009, Mr. Warfield filed a Complaint against the Clerk for alleged violations of Sections 67.21(a) & (b), 67.26, and 67.27 of the Sunshine Ordinance.

HEARING ON THE COMPLAINT

On October 27, 2009, Complainant Peter Warfield appeared before the Task Force and presented his claim. Respondent agency was represented by Rick Caldera, Legislative Deputy Director in the Clerk's Office.

Mr. Warfield reiterated that contact information for members of boards and committees should be public. He told the members that individuals have plenty of time to decide on what kind of information they would like to give out and withhold, and disputed the notion that identity theft (which happens on a large scale involving spammers and rarely as the result of targeting a specific individual) does not defeat public access. Mr. Warfield noted that it was hard to definitively determine where information had been redacted from the document produced because of the use of correction tape to redact

left large blank spaces and that there was no information on why the redaction had occurred.

Mr. Caldera agreed that a line should have been drawn or other marking used on redacted documents to identify where information was redacted. He also noted that the clerk's office was reviewing their policy for redaction of personal information but that the staff was working under the old rules until a new policy is implemented.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Task Force ruled that the contact information for individuals serving on government boards and committees should be publicly accessible. That members of the public need a way to be able to personally contact elected and appointed members of boards and committees who are making and implementing policy for the City. The Task Force also noted that individuals can take steps to protect their privacy while also making themselves accessible to members of the public by, for example, setting up an email account (through Gmail, for example) or a PO Box that would be used for all City business.

DECISION AND ORDER OF DETERMINATION

The Task Force finds that the agency violated Section(s) 67.21 (a) 67.21 (b) for failure to provide records for inspection or review on a timely basis and for making impermissible redactions. The Clerk's Office is directed to produced unredacted copies of the documents Mr. Warfield requested within 5 calendar days of this Order of Determination and to appear before the Compliance and Amendments Committee on November 10, 2009, to discuss compliance with this Order of Determination

This Order of Determination was adopted by the Sunshine Ordinance Task Force on October 27, 2009, by the following vote: (Knee / Johnson)
Ayes:, Craven-Green, Cauthen, Washburn, Knoebber, Johnson, Chu, Chan, Knee
Excused: Manneh, Goldman, Williams



Richard A. Knee, Chair, Chair
Sunshine Ordinance Task Force

c: Jerry Threet, Deputy City Attorney
Peter Warfield, complaint
Rick Caldera, respondent

