Date: Feb. 23, 2010 **Item No.** 1
File No.

SUNSHINE ORDINANCE TASK FORCE

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Completed by: Chris Rustom **Date:** Feb. 18, 2010

***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
SPECIAL MEETING
DRAFT MINUTES

Tuesday, December 1, 2009
4:00 p.m., City Hall, Room 408

Task Force Members

Seat 1	Erica Craven-Green (Vice Chair)	Seat 8	Kristin Chu
Seat 2	Richard Knee (Chair)	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Suzanne Manneh	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 4:02 P.M.

Roll Call Present: Craven-Green (in at 4:22), Knee, Cauthen, Manneh, Washburn, Knoebber, Johnson, Chu, Chan (in at 5:48), Goldman
Excused: Williams

Agenda Changes: Item 30 heard before Item 4

Deputy City Attorney: Jerry Threet
Clerk: Chris Rustom

1. Approval of minutes of October 27, 2009, regular meeting.

   Motion to approve Oct. 27, 2009, meeting minutes: (Goldman / Washburn)

   Public Comment: Peter Warfield of the Library Users Association said he had identified himself as a member of the Library Citizens Advisory Committee during the October hearing on 09057 Peter Warfield v. Clerk of the Board and wanted it reflected in the meeting minutes.

   On the motion:
   Ayes: Cauthen, Manneh, Washburn, Knoebber, Johnson, Chu, Goldman, Knee
   Excused: Craven-Green, Williams
   Absent: Chan

2. 09033 The Compliance and Amendments Committee has referred to the Task Force

a recommendation that File No. 09033, Sue Cauthen v Library Commission, be forwarded to the Ethics Commission on the basis of willful failure as official misconduct by the Library Commission Chair and failure to appear at Committee meetings.

Complainant Sue Cauthen passed out a transcript of what was said during her address to the Library Commission and presented a DVD that showed an exchange she had with Commission President Jewelle Gomez at a recent meeting. She said the Task Force has found that Ms. Gomez's behavior violated the Ordinance and constituted willful misconduct. She urged the Task Force to send the matter to the Ethics Commission. She also said the Task Force needs to send a strong message to the Library Commission that it needs to listen to the public even if they are in disagreement. She added that if the Ethics Commission did not act on this referral it would show that it has a different understanding of its responsibilities. She also suggested a letter be sent to Mayor Gavin Newsom, who appointed Ms. Gomez.

Joan Wood said she was at the meeting where the exchange between Ms. Cauthen and Ms. Gomez occurred. She said she was frightened by the tone of Ms. Gomez's voice. She doubted the Ethics Commission's outcome would be favorable, but said there should be some kind of a rebuke.

Howard Wong said he was at the meeting to speak about the North Beach Branch and noticed that the person who spoke before Ms. Cauthen spoke for the Library and was not cut off. He suggested that the actions of Ms. Gomez may have been because the Commission knew of Ms. Cauthen's position and wanted a certain outcome.

Sue Blackman, Library Commission Secretary, said Ms. Gomez could not be present because of the short advance meeting notice. She said Ms. Gomez stands by her decision to limit public comment on matters that are not on the agenda. However, she said, Ms. Gomez considered the Task Force's suggestions and has made the appropriate changes to the Commission's agenda. She also said the Task Force lost jurisdiction of the matter when it issued a decision July 28, 2009. The matter should have been forwarded to the Ethics Commission, she said

Member Craven-Green said once the Order of Determination is issued, the Compliance and Amendments Committee determines whether the respondent has complied with the finding and if not refers it to the full Task Force with a recommendation that it be forwarded to the Ethics Commission for willful failure and/or official misconduct.

DCA Threet said the Library's position is that, because of the jurisdiction issue, another complaint has to be filed against Ms. Gomez for not attending subsequent meetings.

Chair Knee said the Task Force, considering how the Commission has changed its agenda verbiage to allow for general public comment, has to decide on whether the Order of Determination has been met.

Member Washburn said Ms. Gomez willfully denied Ms. Cauthen the chance to say what she wanted to say.

Member Chu said acting badly and being rude do not violate Sunshine.

Ms. Washburn disagreed. She said Ms. Gomez did not allow Ms. Cauthen to finish her sentence.

Member Chan said another slap in the face was Ms. Gomez's non-attendance at Committee hearings.

Motion to refer matter to Ethics Commission for willful failure as official misconduct by the Commission President and for her failure to appear at Committee meetings. (Goldman / Chan)

Public Comment: Kimo Crossman said the referral must include a name and the reason for the referral. He said he once saw Ms. Gomez interrupting a person making public comment by shaking ice cubes in a tumbler near an open microphone. He also said Ethics would more likely pick up the case because of a lawsuit being filed against them. Charles Pitts said this is a total outrage and criminal prosecution should be considered. Peter Warfield said a prisoner is hanged with no basis in law and to change the law to justify the hanging is outrageous. He also said Commission members also share responsibility in this case and are in collusion by staying silent. An anonymous person said this type of behavior by a public servant is inexcusable and was in favor of sending the matter to the Ethics Commission.

In conclusion, Ms. Blackman said the allegation that a person who was allowed to speak at length before Ms. Cauthen spoke was incorrect. Ms. Gomez, she said, had asked the person to hold her thoughts until the appropriate time. She also said the trigger for Ms. Gomez's response was that Ms. Cauthen had identified herself as a member of a North Beach group. She added that Ms. Cauthen was allowed to speak twice for a total of six minutes.

Ms. Cauthen said it was three minutes and not six. She said she was disgusted by the Library's stance as it shows disregard and disrespect to the Task Force. Other departments have chosen to come before the Task Force while the Library decided not to, she said. She also said the changes to the agenda were immaterial because Ms. Gomez did not know what she was going to talk about.

Member Craven-Green said Ms. Gomez's conduct was unfortunate but the issue before the Task Force was the agenda and the way public comment was taken. The Commission, she said, has made the necessary changes, and that could have been done at the very beginning. Instead, she said, the Library decided to stay silent. She added that she was in favor of sending the matter to the Ethics Commission so that departments get the message.

Member Knee said the testimony of Ms. Wood and Mr. Wong showed that the actions of Ms. Gomez had chilling effect on other attendees who wanted to

speak at the meeting.

On the motion: Craven-Green, Manneh, Washburn, Knoebber, Johnson, Chu, Chan, Goldman, Knee
Excused: Williams
Recused: Cauthen

3. 09044 The Compliance and Amendments Committee has referred to the Task Force a recommendation that File No. 09044, Peter Warfield v Board of Appeals, be forwarded to the Ethics Commission for failure to comply with the Order of Determination regarding email addresses and failure to appear at Committee meetings.

Complainant Peter Warfield of the Library Users Association said he supports the recommendation but has an issue with the scope. He said the Order of Determination dealt with contact information in a broad sense whereas the agenda addresses only email addresses.

Respondent Cynthia Goldstein, Executive Director of the Board of Appeals, said her office agrees that names and addresses would be made public but email addresses and home phone numbers would be redacted. She said the majority of decisions made by the Board of Appeals are on land use-related matters and the location of people submitting information on a particular project is important because it shows whether the person or persons are from within or outside the project area. But, she said, the department feels that there is no public interest in disclosing home email addresses and home telephone numbers. She added that the Order of Determination does provide for protection against retribution and in this case was relevant because land use issues are very contentious and pits neighbor against neighbor.

To clarify, Member Craven-Green said the Compliance and Amendments Committee was told that the Board did review its policy and decided to produce names and addresses but would continue to withhold individual email addresses and individual home telephone numbers. That is why the referral back was narrower, she said.

In closing, Ms. Goldstein did not have any additional remarks. Mr. Warfield said the Task Force should recommend a change if it was not satisfied with the existing legislation. He said the Task Force's duty was not to legislate but to enforce the existing legislation. He said the Order of Determination and the Ordinance indicate that contact information is to be provided and that should be the case. And because the Board of Appeals has said it would not follow the order, he wanted the matter referred to the appropriate enforcement agency.

Chair Knee said the department was in partial and not full compliance with the Order of Determination and therefore there is willful violation.

Member Chu disagreed. She said the department did not comply because it had a different interpretation of the law.

Member Craven-Green said there is no specific case law to cite but the one most closely referred to is related to a freedom of speech vs. invasion of privacy issue.

Motion to refer matter to the Ethics Commission for willful failure to comply with the Order of Determination pursuant to Sec. 67.34 regarding email addresses and failure to attend Committee meetings. (Johnson / Cauthen)

Public Comment: Kimo Crossman said this is a strong case of willful violation but the Ethics Commission will always say that the violation is not willful if the department followed the advice of the City Attorney. He added that the State of Florida informs the public that the information they provide is public and that City Hall's issue with withholding email addresses is because it does not want the public to organize. An anonymous speaker said he supports the complainant and the City is willfully going against the Task Force's order.

On the motion:
Ayes: Cauthen, Manneh, Johnson, Goldman, Knee
Noes: Craven-Green, Washburn, Knoebber, Chu, Chan
Excused: Williams

Motion fails

Motion to refer matter to the Ethics Commission for failure to comply with the Order of Determination pursuant to Sec. 67.30 regarding continued redaction of email addresses. (Craven-Green / Knoebber)

Member Craven-Green said the motion would not include the meeting attendance issue because Ms. Goldstein was very responsive to the Task Force.

Public Comment: None

On the motion:
Ayes: Craven-Green, Cauthen, Manneh, Washburn, Knoebber, Chan, Goldman, Knee
Noes: Johnson, Chu
Excused: Williams

Motion passes

4. 09065 Determination of jurisdiction on complaint filed by Charles Pitts against the Local Homeless Coordinating Board for allegedly not meeting agenda requirements.

Motion to find jurisdiction: (Goldman / Knoebber)

Public Comment: None

On the motion:
Ayes: Craven-Green, Cauthen, Manneh, Washburn, Knoebber, Johnson, Chu, Chan, Goldman, Knee
Excused: Williams

Motion passes

5. 09065 Hearing on complaint filed by Charles Pitts against the Local Homeless Coordinating Board for allegedly not meeting agenda requirements.

Complainant Charles Pitts said the Local Homeless Coordinating Board held a meeting and did not post the agenda online as required. He said he was following a housing report that had gone to the Board of Supervisors and was now back with the Coordinating Board. It seemed, he said, that the Coordinating Board wants to hide the issue from the public. He added that public comment was not permitted when the report first came before the Coordinating Board in October. Because of it he filed a complaint and the Task Force found the Coordinating Board in violation of the Sunshine Ordinance. He also added that Ali Schlageter, the Coordinating Board's policy analyst, did not notify him and other activists about the meeting.

Nobody in the audience spoke for or on behalf of the Coordinating Board. Ms. Schlageter, through a hand-written note passed on to Mr. Rustom earlier in the evening, said she could not stay because of a social commitment.

Member Carven-Green said the respondent in her initial response had said a technical failure prevented the agency from posting the agenda on its website. She noted that nobody had disputed the Library posting.

Motion to find violation of 67.7 (a) and have Charles Pitts' email address added to the agency's email notification list. (Craven-Green / Cauthen)

Member Knee wanted to add Sec. 67.21 (e) to the motion because he believed the respondent's reason for leaving was not valid and was a willful act.

The maker of the motion disagreed.

Member Cauthen withdrew because she wanted to find violation of Sec. 67.21 (e) as well.

Motion to find violation of Sections. 67.7 (a) and 67.21 (e), as well as have the agency add Charles Pitts' email address to the agency's agenda notification list. (Cauthen / Goldman)

Public Comment: Kimo Crossman said technical violation does not exist in the Ordinance. It was either a violation or it isn't. He added that the Ordinance, especially Sec. 67.3 (d) (v), gives preference to services regarding the homeless. And through it, he said, the actions of the Coordination Board were willful. Peter Warfield said finding a technical violation is akin to insulting the complainant and the Ordinance. He wanted to know if there was any evidence

that further explained the technical difficulty faced by the Coordinating Board. Unfortunately, he said, the respondent could not be questioned.

In conclusion, Mr. Pitts said the respondent did not provide any document or contact email recipients about the system failure. He said the Coordinating Board has it meeting schedule created at the beginning of the year and that it was a fact that Ms. Schlageter did not want to keep the community informed.

Motion to separate Sec. 67.7 (a) for failure to post the agenda electronically and Sec. 67.21 (e) for failure to appear (Knee/) Without objection.

On the first motion:
Ayes: Craven-Green, Cauthen, Manneh, Washburn, Knoebber, Johnson, Chu, Chan, Goldman
Noes: Knee
Excused: Johnson, Chan Williams

Motion passes.

On the second motion:
Ayes: Cauthen, Manneh, Washburn, Goldman, Knee
Noes: Craven-Green, Knoebber, Chu
Excused: Johnson, Chan Williams

Motion fails

No further action

6. 09067 Determination of jurisdiction on complaint filed by the Library Users Association against the Historic Preservation Commission for allegedly not providing summaries of public comment in the meeting minutes.

Motion to find jurisdiction: (Goldman / Knoebber)

Public Comment: None

On the motion:
Ayes: Craven-Green, Cauthen, Manneh, Washburn, Knoebber, Chu, Goldman, Knee
Excused: Johnson, Chan, Williams

Motion passes

7. 09067 Hearing on complaint filed by the Library Users Association against the Historic Preservation Commission for allegedly not providing summaries of public comment in the meeting minutes.

Complainant Peter Warfield, Executive Director of the Library Users Association read from his complaint dated Oct. 13, 2009, as well as his supporting document dated Nov. 24, 2009.

The Historic Preservation Commission was not represented. Mr. Rustom said Linda Avery, Secretary to the Planning and Historic Preservation Commissions had notified him that she would not be in attendance. No reason was provided, he said.

Member Cauthen said the formation of the Commission attracted a large number of voters but certain groups want it to be powerful because of their agendas. She said she had previously contacted Ms. Avery regarding a complaint about the recording of minutes. Ms. Avery replied she would contact the commissioners and would get back to her. Member Cauthen said she has not heard from Ms. Avery since.

Member Cauthen suggested that the Task Force write a letter to Ms. Avery reminding her of her responsibilities under Sunshine.

To Member Cauthen, Mr. Warfield said the issue of the minutes was brought up at a recent Commission meeting and during the course of the discussion it was noted that Ms. Avery had said Mr. Warfield's assertion that the document did not meet the requirements of law was correct. He said she then went on to discuss budget issues and the subject was not revisited.

Member Craven-Green said Sec. 67.16 would apply to the Commission only if it was enumerated in the Charter.

Motion to find the Historic Preservation Commission in violation of Sec. 67.16 for not providing a brief summary of each person' statement during the public comment period during the meeting. (Cauthen / Goldman)

Member Goldman made a friendly amendment to include 67.21 (e) for failure to appear. Maker agreed.

Motion to find the Historic Preservation Commission minutes in violation of Sec. 67.16 for not providing a brief summary of each person' statement during the public comment period during the meeting, and Sec 67.21 (e) for failure to appear. (Cauthen / Goldman)

In closing, Mr. Warfield said the Planning Department, which has 200 employees and a budget of $20 million, should provide the Commission with the appropriate support so that it meets the minimum requirements needed by law.

Public Comment: Joan Wood, who said she has attended most of the Commission's meetings, told the Task Force that Ms. Avery has an impossible job of being the secretary to the Planning and Historic Preservation Commissions. The person who should be responding to this complaint is Planning Director John Rahaim and not Ms. Avery, she said. Audio of the meetings are available for purchase, she added. Kimo Crossman said the Historic Preservation Commission and the Planning Commission should both be found in violation of not providing meaningful minutes and let them solve

the issue.

On the motion:
Ayes: Craven-Green, Cauthen, Manneh, Washburn, Knoebber, Chu, Goldman, Knee
Excused: Johnson, Chan, Williams

Motion passes

Matter referred to December 10, 2009, Education, Outreach and Training Committee.

8. 09069 Determination of jurisdiction on complaint filed by the Asian Law Caucus against the Mayor's Office for alleged failure to respond to information requests.

Motion to find jurisdiction: (Goldman / Cauthen)

Public Comment: None

On the motion:
Ayes: Craven-Green, Cauthen, Manneh, Washburn, Knoebber, Goldman, Knee
Excused: Johnson, Chu, Chan, Williams

Motion passes

9. 09069 Hearing on complaint filed by the Asian Law Caucus against the Mayor's Office for alleged failure to respond to information requests.

Chair Knee read a note provided to Mr. Rustom from Brian Purchia of the Mayor's Office that said he had to leave the meeting for a press appointment.

Complaint Angela Chan, a staff attorney at the non-profit Asian Law Caucus in San Francisco, said she submitted an Immediate Disclosure Request to the Mayor's Office on Sept 2, 2009, seeking a copy of a City Attorney Office memo that was leaked to the San Francisco Chronicle newspaper and any communication on the memo between the Mayor's Office and the Chronicle. She said the Mayor's Office has responded to her first request and not to the second. Also, the Mayor's Office has not provided any justification for withholding the documents, she said. She added that the Mayor owes it to the residents of San Francisco to explain who the document was leaked to and how. Sarah Phelan, a reporter with the San Francisco Bay Guardian, said she submitted a similar request to the Mayor's Office and did not receive a response. She added that by selectively leaking it to the Chronicle, the Mayor's Office enabled the newspaper to angle the article to its audience whereas the Spanish and Asian-language media were left out of the process.

To Member Craven-Green, Ms. Chan said the Mayor's Office does not have to put in writing what was exchanged. A verbal response would suffice and the

Mayor's Office needs to share the information with her, she said.

Member Craven-Green said the Task Force needs to hear from the Mayor's Office to know if any communication with the Chronicle regarding the leaked memo existed. Ms. Chan had earlier said the existence of the communications between the Mayor's Office and the Chronicle was claimed on the basis that the newspaper was able to do follow-up articles.

In conclusion, Ms. Chan said the Mayor's Office should allow her to look through their letters, emails and correspondence created and produced during the effected time period to see if any communication existed. She also said there is a public interest on the topic because anti-immigrant and anti-sanctuary groups could file lawsuits against the City and County of San Francisco.

Motion to continue this matter to the January 5, 2009, meeting and request a representative from the Mayor's Office attends the meeting to answer questions from Task Force members. (Craven-Green / Cauthen)

Public Comment: Nicholas Jesson said justice must be served by not allowing the continuance and forcing the Mayor's Office to respond to the complaint. Anmarie Mabbutt wanted to know how many times complainants have to come to hearings when respondents do not appear. She said complainants attend hearings at their time and expense and to continue the matter would be unfair to them. Peter Warfield said delaying the case is a violation of the law and should not be permitted. He said attention should be paid to the oral information section of the Ordinance in this matter. He added that the Mayor's Office should have indicated whether or not it had documents related to the second request. To not do so is a violation and a serious one, he said. Kimo Crossman said it was strange for the Mayor's Press Office not to send someone to answer Task Force questions where as it can respond to press queries 24/7. He believed that the representative saw the tone of the earlier hearings and left because he was afraid to be found in violation. He suggested that the Task Force find the Mayor's Office in violation and leave it to it to present its side of the story when the time comes to ascertain compliance with the Task Force's Order of Determination. Pinky Cushtner said the case should not be delayed just because someone decided to leave the hearings to go do something else. The Mayor's Office certainly has more staff than the number of members the Task Force has, she said.

Member Cauthen withdrew her support for the motion because she believed that the response from the Mayor's Office to Ms. Chan and the actions of the representative of the Mayor's Press Office that day convinced her that nobody would attend the next meeting.

Motion dies for lack of a second.

Chair Knee presented a motion after members discussed the issues involved with the complaint.

Motion to continue the matter to the next meeting. (Knee / Craven-Green)

Member Craven-Green suggested Chair Knee write a letter to the Mayor's Office saying that a representative needs to be present at the meeting. The letter should also note that further non-appearance at Task Force meetings would also lead to finding of a violation of Sec. 67.21 (e) and that the Mayor's Office needs to comply with Task Force procedures by responding to the complaint no later than five days before the next hearing.

Public Comment: Kimo Crossman said deleted emails from the Mayor's Office should also be requested. Peter Warfield said the complainant should also agree to the continuance which also is a disservice to the public and in a way encouraging the Mayor's Office not to appear before the Task Force.

DCA Threet suggested members make a finding on parts of the complaint they did not need additional information and continuing the matters where more input was needed.

Motion to sever violations (Cauthen / Washburn) Without objection

Motion to find violation of Sec. 67.21 (e) for failure to appear. (Cauthen / Washburn)

Public Comment: Peter Warfield applauded the move to split the violations. Kimo Crossman said the Mayor's Office willfully chose not to attend.

On the motion:
Ayes: Craven-Green, Cauthen, Manneh, Washburn, Knoebber, Goldman, Knee
Excused: Johnson, Chu, Chan, Williams

Motion passes

Motion to find violation of Sec. 67.27 for failure to provide justification for withholding. (Cauthen / Washburn)

Public Comment: Kimo Crossman said the matter should be continued. Peter Warfield said he supports the finding.

On the motion:
Ayes: Cauthen, Manneh, Washburn, Knoebber, Goldman, Knee
Noes: Craven-Green
Excused: Johnson, Chu, Chan, Williams

Motion passes

Motion to continue.

Ayes: Craven-Green, Cauthen, Manneh, Washburn, Knoebber, Goldman, Knee

Excused: Johnson, Chu, Chan, Williams

Motion passes

10. 09070 Determination of jurisdiction filed by Anmarie Mabbutt against the Department of Recreation and Park for allegedly not responding to her Immediate Disclosure Requests.

Motion to find jurisdiction: (Goldman / Knoebber)

Public Comment: None

On the motion:
Ayes: Craven-Green, Cauthen, Manneh, Washburn, Knoebber, Goldman, Knee
Excused: Johnson, Chu, Chan, Williams

Motion passes

11. 09070 Hearing on complaint filed by Anmarie Mabbutt against the Department of Recreation and Park for allegedly not responding to her Immediate Disclosure Requests.

Complainant Anmarie Mabbutt said the Department of Recreation and Park continues to violate the letter and spirit of the Sunshine Ordinance, specifically Sections 67.21 (a), 67.25 (d), 67.14 (c), 67.29-7 (a), 67.7-1 (b), 67.7-1 (c), 67.26 and 67.27. She said she realized that she has submitted an enormous amount of Immediate Disclosure Requests to the department over the past few months. The department, she said, has responded properly to many of the requests but at the same time has ignored or not responded fully to some.

Respondent Olive Gong, Custodian of Records for the Department of Recreation and Park, said her office has received more than 150 requests from the complainant over the last five months and has responded diligently and has devoted a lot of resources to assist her. The department, she said, has been unable to meet the deadlines on many of the Immediate Disclosure Requests because of their complex nature. The department continues to assist the requestor in any way possible, she said.

Member Craven-Green noted that Ms. Mabbutt has to specify what the complaint is about so that the respondent can come prepared.

Chair Knee declared a three-minute recess.

The meeting resumed with the more testimony from Ms. Mabbutt and Ms. Gong.

Motion to find violation of Sec. 67.14 (c) for not posting the meeting's audio recording.(Craven-Green / Goldman)

In closing, Ms. Gong said the complainant has inappropriately asked certain members of the public to submit certain documents to the department. Ms. Mabbutt said the email was sent because the department failed to maintain its records. She also said this subject is related to 09071 and not 09070.

Public Comment: None

On the motion:
Ayes: Craven-Green, Washburn, Knoebber, Goldman, Chan, Knee
Excused: Cauthen, Manneh Johnson, Chu, Williams

Motion passes

Chair Craven-Green referred the matter to the January 12, 2010, Compliance and Amendments Committee Refer to see if the and when the department intends to come into compliance with audio posting requirement and also to see if the department's information technology officer produced the Terry Schwartz email.

12. 09071 Determination of jurisdiction on complaint filed by Anmarie Mabbutt against the Department of Recreation and Park for allegedly not maintaining public records.

Motion to find jurisdiction: (Goldman / Knoebber)

Public Comment: None
On the motion:
Ayes: Craven-Green, Washburn, Knoebber, Chan, Goldman, Knee
Excused: Cauthen, Manneh Johnson, Chu, Williams

Motion passes

13. 09071 Hearing on complaint filed by Anmarie Mabbutt against the Department of Recreation and Park for allegedly not maintaining public records.

Complainant Anmarie Mabbutt said the department has failed to maintain its records required under Sec. 67.29-7 (c), specifically documents that show that she has held for-profit summer programs at Golden Gate Park for nine years. The department's permit section, she said, lacks accountability, oversight and proper procedures. For example, she submitted exhibit 6 which is a Viking Soccer's permit. According to the Park Code, Viking Soccer should have been charged $65 per hour instead of $25 an hour, she said. That cost the City $28,800 in revenue, an amount that could have paid for several swing sets designed for children with special needs, she said.

Respondent Olive Gong, Custodian of Records for the Department of Recreation and Park, said Ms. Mabbutt's contract with the department to use six tennis courts over the entire summer was with Property Management and not Permits and Reservations which issued the Viking Soccer's permit. Ms. Mabbutt's contract requires her to give the department a certain percentage of

her income from tennis coaching while the Permits and Reservations only charges a flat fee for facility use, she said.

To Chair Knee, Ms. Gong said only Ms. Mabbutt, because of her special contract with the City, has to produce certain documents that show her income from the Golden Gate Fields.

In closing, Ms. Mabbutt said her revenue records should not be subject to the Ordinance and not made available to the public. Ms. Gong did not present closing remarks.

Motion to find no violation (Craven-Green / Knoebber)

Public Comment: None

On the motion:
Ayes: Craven-Green, Washburn, Knoebber, Chan, Goldman, Knee
Excused: Cauthen, Manneh, Johnson, Chu, Williams

Motion passes

14. 09072 Determination of jurisdiction on complaint filed by Anmarie Mabbutt against the Clerk of the Board for not meeting agenda requirements regarding Legislative File No. 070815.

Continued to January 5, 2010, meeting.

15. 09072 Hearing on complaint filed by Anmarie Mabbutt against the Clerk of the Board for not meeting agenda requirements regarding Legislative File No. 070815.

Continued to January 5, 2010, meeting.

16. 09073 Determination of jurisdiction on complaint filed by Anmarie Mabbutt against the Clerk of the Board for not meeting agenda requirements regarding Legislative File No. 090717.

Continued to January 5, 2010, meeting.

17. 09073 Hearing on complaint filed by Anmarie Mabbutt against the Clerk of the Board for not meeting agenda requirements regarding Legislative File No. 090717.

Continued to January 5, 2010, meeting.

18. 09074 Determination of jurisdiction on complaint filed by Kimo Crossman against the Ethics Commission for allegedly violating Sec. 67.24 (h) (g) (i) by invoking exemptions not allowed under the Sunshine Ordinance.

Continued to January 5, 2010, meeting.

19. 09074 Hearing on complaint filed by Kimo Crossman against the Ethics Commission

for allegedly violating Sec. 67.24 (h) (g) (i) by invoking exemptions not allowed under the Sunshine Ordinance.

Continued to January 5, 2010, meeting.

20. 09075 Determination of jurisdiction on complaint filed by Bred Starr against the City Attorney's Office for allegedly withholding public information.

Continued to January 5, 2010, meeting.

21. 09075 Hearing on complaint filed by Bred Starr against the City Attorney's Office for allegedly withholding public information

Continued to January 5, 2010, meeting.

22. 09076 Determination of jurisdiction on complaint filed by Anmarie Mabbutt against the Mayor's Office for allegedly causing unnecessary delay in responding to public record requests.

Motion to find jurisdiction (Goldman / Knoebber)

Public Comment: None

On the motion:
Ayes: Craven-Green, Washburn, Knoebber, Chan, Goldman, Knee
Excused: Cauthen, Manneh Johnson, Chu, Williams

Motion passes

23. 09076 Hearing on complaint filed by Anmarie Mabbutt against the Mayor's Office for allegedly causing unnecessary delays in responding to public record requests.

David Eldred, who spoke on behalf of complainant Anmarie Mabbutt, said a study regarding fees considered this past summer for the Japanese Tea Garden, the Conservatory of Flowers and the Botanical Garden were requested from the Mayor's Office in June. However, it was received after a four-month delay, he said. Public policy, he said, was created without access to the study done by the Botanical Society, which being a non-profit did not necessarily have to disclose it. Time, he added, was pertinent in this.

Respondent Rich Hillis of the Mayor's Office on Economic and Workforce Development said at that time he was working for the Department of Recreation and Park and had received a request from Ms. Mabbutt but was late in responding to it. He said he did not have the information but was able to direct her to the proper staff person.

To Member Craven-Green, he said emails on the study were going back and forth and that he looked for the emails mentioned in the complaint and found they had been deleted.

Motion to find violation of Sec. 67.25 (a) for untimely response. (Goldman / Craven-Green)

In closing, Mr. Hillis said he was only being copied in the email exchange and was not the main recipient. Mr. Eldred said receiving requested material four months later is not timely.

Public Comment: Kimo Crossman said Mr. Hillis has said he knows the rules on email deletion and wanted to know what they were. Peter Warfield said if a City employee was not available to assist the public he or she could leave a phone or email message saying whom the requestor should contact for help.

On the motion:
Ayes: Craven-Green, Washburn, Knoebber, Chan, Goldman, Knee
Excused: Cauthen, Manneh Johnson, Chu, Williams

Motion passes

Matter forwarded to January 12, 2010, Compliance and Amendments Committee meeting.

24. Supervisor of Records Report.

Continued to January 5, 2010, meeting. Without objection

25. Ethics Commission proposed rules on handling Sunshine complaints.

Continued to January 5, 2010, meeting. Without objection

26. Report: Complaint Committee: meeting of November 10, 2009. (Nick Goldman)

Committee Chair Nick Goldman made the report. Without objection

27. Report: Compliance and Amendments Committee: meeting of November 10, 2009. (Erica Craven-Green)

Committee Chair Erica Craven-Green made the report.

28. Report: Education, Outreach and Training Committee meeting of November 12, 2009. (Sue Cauthen)

Committee Chair Sue Cauthen was absent.

29. Administrator's Report.

Mr. Rustom made the report.

30. 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.

James Chaffee said one of the most egregious violators of the Sunshine Ordinance was the Library and it dates back to the mid 1990s. One of the Commission presidents who was totally against Sunshine was Ernie Llorente. He was so successful that the City Attorney hired him, he said. His innovations within the Task Force created procedural flaws that worked against complainants and nothing has changed since, he added. Bred Starr said she represents parties who are frustrated with the ways departments conduct business. She said her complaint was taken off the Task Force agenda because the City Attorney wanted more time to delay releasing a 16-page report that was created in 2003 and 2004. Kimo Crossman said the confidential check box on the complaint form needs to be replaced with a sentence that says information provided on the form is a public record. He also said DCA Threet is so busy with non-Sunshine matters that he does not have time to provide the Task Force with his legal analysis. Peter Warfield said DCA Threet should be giving written advice so that the public can know why the Task Force voted in a certain way. He also said an unfortunate event happened in 2002 when he filed a complaint against the Library Commission and DCA Llorente had to recuse himself because the documents in question dated back to when Mr. Llorente was the chairman of the Commission.

31. Announcements, comments, questions, and future agenda items from the Task Force. None

Adjournment: The meeting was adjourned at 9:15 p.m.

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