

Date: January 8, 2008

Item No. 23
File No. a. & b.

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- Draft Minutes: Task Force for November 26, and November 27, 2007**
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Completed by: Frank Darby

Date: January 2, 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



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<http://www.sfgov.org/sunshine/>

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

Monday, November 26, 2007
4:00 p.m., City Hall, Room 406

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Vacant	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Angela Calvillo
Seat 7	David Pilpel	Ex-officio	Harrison Sheppard

Call to Order

The meeting called to order at: 4:01 P.M.

Roll Call

Present: Craven, Knee, Chu, Comstock, Pilpel (in at 4:06 out at 4:57), Wolfe, Chan, Goldman, Sheppard

Excused: Cauthen, Williams

Agenda Changes: General Public Comment was heard after item #1.

Deputy City Attorney: Ernie Llorente
Administrator: Frank Darby

1. Discussion re: the memo from Member Harrison Sheppard.

Member Sheppard discussed his memo and recommendations:

1. That the Board of Supervisors budget for the creation of a record-keeping model and website design that can be used Citywide.
2. The creation of a full time legal counsel in the City Attorney's office that is dedicated to the Task Force.
3. That the Ordinance be amended to allow enforcement of Task Force decisions by the Ethics Commission.
4. Amend the Ordinance to allow more than 45 days to issue a determination.

Public Comment: Kimo Crossman said that additional funding for a City Attorney and the creation of record keeping is unnecessary. He recommended that the 45-day response to complaints not be changed; that does not agree with changing the choices for sanctions by the Ethics Commission. Wayne Lanier said that he supports member Sheppard's recommendations.

He also read a letter suggesting developing e-record keeping practices and the posting of information on the web; a copy of which Member Pilpel asked that he provide to the Task Force.

Allen Grossman suggested that independent counsel rather than a City attorney, provide support to the Task Force; that funding is already available. He said there isn't a need to study record-keeping practices because its not too expensive for the public to know what's going on.

Member Pilpel suggested that the 45-day rule be retained, that the TF invite the Ethics Commission to discuss their process and the Board of Supervisors, City Attorney and Mayor to discuss inconsistencies. He said that what's lacking from the City Attorney's office is a summary of current case law; that the Task Force can't serve as a model for other City departments because the TF has a limited number and type of records.

Member Wolfe said that it's time for the TF to have enforcement powers because repeat offenses are burdensome; that pushing ahead with the amendments will solve problems such as using CA advice as a shield. He said the problem with the 45-day rule is more of logistics.

Member Craven said that Mr. St. Croix has already appeared before the Compliance and Amendments Committee and the suggestions have been incorporated into subsequent Order of Determinations (OD). She suggested that members get a copy of the minutes.

Member Chu suggested that the Task Force have two meetings per month and said that she doesn't see a need for the Complaint Committee.

Member Knee said that he's all for a full time counsel if affordable. He said he doesn't believe that the Task Force is costing the City; that it's important to "do our job."

Chair Comstock said that he supports flexibility with the 45-day rule and the ability to separate the diverse levels of complaints that require more thought and research.

Member Pilpel said that members should be able to respectfully disagree with parties within the City, and suggested that this item be continued to invite others parties to attend.

Member Sheppard asked the Administrator to provide him with a copy of the CAC minutes regarding the meeting that occurred with John St. Croix of the Ethics Commission.

Chair Comstock suggested that issues raised in Member Sheppard's memo be included in the 2006 Annual Report

Member Craven said that a full time legal counsel, but not an independent attorney, is needed for research; that it would be helpful to have more analysis. She said that this item does not need to be continued but rather to incorporate

the recommendations in the proposed amendments and 2007 Annual Report.

Member Sheppard said he agrees with Member Craven's suggestions.

No formal action taken.

2. Discussion re: the Task Force's draft 2006 Annual Report.

Chair Comstock provided a copy of his proposed summary to members. He said that he wanted to add a sentence on page 4, section 3 of his summary in the last paragraph that says, "A review and report on the availability and efficacy of technological advances to accomplish records maintenance, review, redaction, and release."

Member Craven suggested that the 2006 and 2007 Annual Reports be combined; that language provided by Members Chu, Comstock, and Sheppard be incorporated in the report.

DCA Llorente, in response to Chair Comstock's question, said that the Task Force is required pursuant to Section 67.30 (c) of the Ordinance to submit an annual report each calendar year.

Member Sheppard suggested that the 2006 Annual Report be submitted with one paragraph which says: Pursuant to Section 67.30 (c) of the Sunshine Ordinance the Sunshine Ordinance Task Force would like to bring to the Board of Supervisors attention the fact that there are a number of policy matters which the Task Force has deliberated and we will be forwarding full recommendations respecting each one involving its relationship to other City agencies by XYZ date. That the Task Force is preparing an amalgamated report for 2006-2007 because there are a number of issues that overlap and we would like the Board of Supervisors to accept this as an interim report.

Public Comment: Kimo Crossman said that Member Sheppard could not make motions or provide written comments to the Task Force. He said that the annual report does not point out that the CA is prohibited from denying access to public records, by advising departments to get verbal advise; that the CA refused to provide copies of cited case law. He said that the cost of responding to public records should be compared with positing the records online. He suggested that an article regarding the Sunshine posse be included in the report.

Allen Grossman said that the problem is the CA's involvement with City departments; that an independent person outside the CA office is needed. He said that the department's complaints that responding to public records requests is burdensome is not valid. He said that the notion that the TF is inconsistent is untrue, but that the TF is fair in every regard.

Member Knee moved to combine the 2006 and 2007 annual report, without objection.

Member Sheppard explained that he did not say that the TF is inconsistent

Member Wolfe said that every referral to the Ethics Commission, District Attorney, and Attorney General should be actionable.

Member Craven said that she would submit her suggestions to the annual report to the Task Force. She suggested that the Administrator begin to draft the 2007 report and schedule it for review in January 2008, without objection.

Chair Comstock urged members to submit any comments to his summary and said that his summary is not meant to be an attack on the City Attorney's Office. He said that he did a study from 2002 to 2006; that in 2002 there were more cases filed and more hearings than in 2006.

Member Chu expressed concern that the summary is too negative and suggested that a more positive tone be used.

Member Wolfe said that he prefers not to soften the tone in the summary.

Member Chu offered to rewrite the Annual Report and incorporate all of the member's comments.

Public comment on items not listed on the agenda.

Speakers: Kimo Crossman said that that extending the 45 day rule would not resolve the issue of late responses from departments. He said that he agreed with getting rid of the Complaint Committee, and that the CA needs to cite more case law.

Member Chu said that the Complaint Committee discussed the issue regarding responses from parties and concluded that the Task Force only needed to enforce the rules that it already has. She said that the TF should not accept documents handed out at the meeting.

Allen Grossman said that a lot would be gained if the Task Force enforced its own rules regarding responses from departments. He said that the length of time that it takes from the date the records are requested from the department to conclusion at the Compliance and Amendments Committee is a long period of time. He said that most departments do a real good job and that it is only when there are special issues involving privacy and the CA that they run into problems.

Member Craven suggested that the recommendations from Member Sheppard be referred to the CAC for inclusion in the amendments that are being considered. And including the recommendations in a summary at the beginning of the annual report.

Motion to refer the recommendations made by Member Sheppard and the additional comments made by the Task Force to the CAC for further consideration and potential adoption into the amendments that are under consideration. That the Task Force considers adding the recommendations in a summary at the beginning of the 2006 and/or 2007 annual report.

(Craven/Wolfe).

Ayes: Craven, Knee, Chu, Comstock, Wolfe, Chan, Goldman

Excused: Cauthen, Pilpel, Williams

Member Knee said that the Task Force needs to be careful where in the ordinance each of the recommendations might be added, which might require reopening previously discussed sections in Article III and IV.

Chair Comstock asked the Administrator to schedule a discussion at the next Task Force meeting regarding whether or not the Complaint Committee serves an essential function in its determination of jurisdiction of complaints that could not be performed at the full Task Force, and/or whether the committee should be combined with the Task Force meetings, which could be held twice monthly.

Adjournment

The meeting was adjourned at 5:47 p.m.

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



<http://www.sfgov.org/sunshine/>

**SUNSHINE ORDINANCE TASK FORCE
DRAFT MINUTES**

Tuesday, November 27, 2007
4:00 p.m., City Hall, Room 408

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Vacant	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Angela Calvillo
Seat 7	David Pilpel	Ex-officio	Harrison Sheppard

Call to Order

The meeting was called to order at: 4:02 P.M.

Roll Call

Present: Craven (in at 4:34, out at 7:00), Knee, Cauthen (out at 9:13), Chu (out at 9:45), Comstock, Pilpel, Wolfe (in at 4:12), Chan (in at 4:09), Goldman, Williams (out at 9:50)

Excused: Sheppard

Agenda Changes: Items were heard in the following order: 1-3, 5, 17, 6-10, 13, 11-12, 14, 4, 15-16, 18

Deputy City Attorney: Ernie Llorente
Administrator: Frank Darby

1. Approval of minutes of October 23, 2007.

Public Comment: None

Motion to approve the October 23, 2007 minutes, as amended.(Knee / Goldman)

Ayes: Knee, Cauthen, Chu, Comstock, Pilpel, Goldman, Williams

Absent: Craven, Wolfe, Chan

2. Report from the Complaint Committee meeting of October 9, 2007 and November 13, 2007.

Member Cauthen made the report.

- a. 07066 Determination of jurisdiction of complaint filed by Charles Pitts against the Department of Human Services and the Central City Hospitality House for alleged failure to provide a complete copy of his personnel file.

DCA Llorente said that his letter states that the Task Force does not have jurisdiction because the requested records do not fall under the 12L requirements.

Speakers: Charles Pitts, Complainant, said that he requested his personnel files from CCHH, but did not get all of them. He urged the Task Force to find jurisdiction. Pamela Tebo and David Curto, Respondents for DHS, said that the department does not have the records requested but did their best to resolve the matter by providing the documents that were received from CCHH to Mr. Pitts. Jackie Jenks, Respondent CCHH, said that they have complied with the Sunshine Ordinance, but that client files do not fall under the ordinance. She urged the Task Force to find no jurisdiction.

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Cauthen

Noes: Knee, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

Excused: Craven

- b. 07075 Determination of jurisdiction of complaint filed by Laura Carroll against the Mayor's Office of Housing for violation of Section 67.21 and 67.26 of the Sunshine Ordinance for alleged failure to provide documents, and failure to keep withholding to a minimum.

Speakers: None

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

Excused: Craven

- c. 07076 Determination of jurisdiction of complaint filed by Charles Bolton against the Dept. of Public Works for violation of §§ 67.15, 67.24, 67.25, 67.27, 67.7-1 and 67.5 of the Ordinance for alleged failure to provide records, untimely response, failure to justify withholding, improper notice of the July 25, 2007 meeting, and failure to allow public comment at the September 5, 2007 meeting.

Speakers: Kimo Crossman recommended that members do a hand vote.

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

Excused: Craven

- d. 07077 Determination of jurisdiction of complaint filed by Allen Grossman against the Office of the District Attorney for violation of Sections 67.21 (b), 67.25 (a) of the Sunshine Ordinance, and CPRA Section 6253 (b) for alleged failure to respond to an immediate disclosure requested submitted on September 20, 2007.

Speakers: None

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

Excused: Craven

- e. 07078 & 07079 Determination of jurisdiction of complaint filed by John Chapman against the Controller's Office and the Public Utilities Commission for alleged failure to provide requested records and failure to respond in a timely manner.

Speakers: John Chapman, Complainant, said that since he has the records the only matter of concern is regarding timeliness.

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

- f. 07080 Determination of jurisdiction of complaint filed by Dan Boreen against the Fire Department for violation of Sections 67.24-67.27; 67.29-5 of the Sunshine Ordinance, and CPRA Section 6254 for alleged failure to provide records, failure to keep withholding to a minimum, failure to justify withholding, and untimely response.

Speakers: John Champ

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

- g. 07081 Determination of jurisdiction of complaint filed by Hanley Chan against the Police Department for violation of Section 67.21 and 67.22 of the Sunshine Ordinance for alleged failure to provide records and oral information.

Motion to recuse Member Chan. (Pilpel / Wolfe)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

Speakers: None

Motion to accept jurisdiction. (Cauthen / Roldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Goldman

Absent: Williams

Recused: Chan

3. 07066 Public Hearing, complaint filed by Charles Pitts against the Department of Human Services (DHS) and the Central City Hospitality House (CCHH) for alleged failure to provide a complete copy of his personnel file.

No action taken. Motion to accept jurisdiction failed.

4. 07069 Continued: Public Hearing, complaint filed by Ray Hartz against the office of Supervisor Aaron Peskin for violation of Section 67.21 (c) of the Sunshine Ordinance for alleged failure to provide assistance.

Chair Comstock disclosed that he served on Ms. Chung's campaign, but can be fair and impartial.

Member Cauthen said that she has served with Ms. Chung in the district, and can be fair and impartial.

Member Knee said that lives in Supervisor Peskin's district and can be fair and impartial.

Speakers: Rose Chung, Aide to Supervisor Peskin, in response to Chair Comstock agreed to postpone the hearing in the absence of Mr. Hartz.

Continued, without objection.

5. 07075 Public Hearing of complaint filed by Laura Carroll against the Mayor's Office of Housing (MOH) for violation of Sections 67.21 and 67.26 of the Sunshine Ordinance for alleged failure to provide documents, and failure to keep withholding to a minimum.

Speakers: Laura Carroll, Complainant, urged the Task Force to find a violation of Sections 67.21, 67.24 and 67.26 of the Ordinance. Dee Modglin, in support of the complainant, said that the MOH is withholding information and is not responding timely.

Member Wolfe disclosed that he met with Ms. Modglin on an unrelated matter, and can be fair and impartial. He also said that he is on the Board of Directors having discussions with MOH and can be fair and impartial.

Myrna Melgar, MOH Representative, said that all of the requested records have been provided to Ms. Carroll to the best of their abilities.

Ms. Carroll, in rebuttal, said that MOH has a responsibility to provide records regardless of their record keeping practices.

Public Comment: Kimo Crossman, said that attorney-client privilege can be waived. He asked the Task Force to have DCA Llorente write an opinion as to whether the communications are privileged.

Motion finding the Mayor's Office of Housing in violation of Sections 67.21 of the Sunshine Ordinance for failure to respond in a timely manner. This matter is referred to the Compliance and Amendments Committee, for its December 12, 2007 hearing. Within 5 days of the Order of Determination, the MOH should produce to the Task Force and the complainant the correspondence from the City Attorney's Office specifying which documents MOH was advised to withhold from release on the basis of attorney-client privilege. The MOH is also instructed to double check to ensure that the withholding was as narrow as possible and whether redacted documents can be provided in certain

circumstances. (Craven / Cauthen)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Goldman, Williams

Excused: Chan

6. 07076 Public Hearing of complaint filed by Charles Bolton against the Department of Public Works for violation of Sections 67.15, 67.24, 67.25, 67.27, 67.7-1 and 67.5 of the Sunshine Ordinance for alleged failure to provide records, untimely response, failure to justify withholding, improper notice of the July 25, 2007, meeting, and failure to allow public comment at the September 5, 2007, meeting.

Speakers: Charles Bolton, Complainant, said that he has not had problems getting a response from the Administrator, who has been very helpful. He said that he requested records regarding Mechanical Street Cleaning legislation but did not receive a response.

Oga Ryerson and Chris Montgomery, DPW representatives, apologized for their lack of response and untimely response. They said that the street cleaning legislation had been deleted from a staff's file and was found in another file yesterday. The file was handed to Mr. Bolton.

Mr. Bolton in rebuttal said that he was impressed with the department's response and said that it is an excellent first step to resolving the matter.

Public Comment: Jason Garza, said that he is concerned that the department is being commended for not responding timely.

Kimo Crossman, said that the department has a duty to access and locate records.

Motion finding the Department of Public Works in violation of Sections 67.21 of the Sunshine Ordinance for failure to respond in a timely manner. As all responsive records have now been produced, the Task Force shall take no further action on this complaint. (Craven / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Goldman, Williams

Excused: Chan

7. 07077 Public Hearing of complaint filed by Allen Grossman against the Office of the District Attorney (DA) for violation of Sections 67.21 (b), 67.25 (a) of the Sunshine Ordinance, and CPRA Section 6253 (b) for alleged failure to respond to an immediate disclosure requested submitted on September 20, 2007.

Speakers: Allen Grossman, Complainant, said that he did not receive the requested records; that he was provided a spreadsheet containing record logs. Sandip Patel, DA representative, said that for security reasons a database that identifies where records are located were not provided. He said that according to Section 67.24 (d) of the Ordinance the DA must balance certain concerns. Mr. Grossman, in rebuttal, said that he is only interested in the database of the media sent to GRM; that the DA claims to have no system for backup and retrieval of e-mails, or ability to identify records stored.

Public Comment: Kimo Crossman questioned Mr. Patel's right to represent the DA, whom, he alleges is an intern. He said the DA's software does create a log of records that are backed up; that Section 67.24 (d) only applies to investigative files not general files.

Jason Garza said that it is a "red herring" to not provide the list from the database.

Ms. Johnson's comments were inaudible.

Motion finding the District Attorney's Office in violation of Sections 67.21, 67.21-1, 67.25, 67.26, and 67.27 of the Sunshine Ordinance and Government Code Sections 6253 and 6253.9 for failure to provide records, failure to use computer technology to provide access to records, failure to respond in a timely manner, failure to keep withholding to a minimum, and failure to justify withholding. The District Attorney's Office is instructed to provide the responsive documents that have not been provided to Mr. Grossman, including any log from the Arc Soft program that shows the date files were backed-up or archived, within 5 days after the issuance of this Order of Determination. (Comstock / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Goldman, Williams

Excused: Chan

8. 07078 & 07079 Public Hearing of complaint filed by John Chapman against the Controllers Office and the Public Utilities Commission (PUC) for alleged failure to provide records requested and failure to respond in a timely manner.

Speakers: John Chapman, Complainant, said that he was satisfied with the Administrators response to him. He said that he received all responsive documents and that the only matter is the untimely response.

Ed Harrington, Controller, said that the matter would have been handled differently if it had been submitted as a sunshine request. He said that an extensive search was done to locate the information, but Mr. Chapman was not informed about the research being done. He apologized for their breakdown in communication.

At the conclusion of testimony by the complainant and respondent, and extensive discussions among its members, the Task Force took no formal action.

9. 07080 Public Hearing of complaint filed by Dan Boreen against the Fire Department (FD) for violation of Sections 67.24-67.27; 67.29-5 of the Sunshine Ordinance, and CPRA Section 6254 for alleged failure to provide records, failure to keep withholding to a minimum, failure to justify withholding, and untimely response.

Speakers: Dan Boreen, Complainant, asked that his complaint be divided into four separate matters.

By consensus of the Task Force, the complaint was separated into four separate matters

07080a: Dan Boreen, Complainant, said that the department withheld pay type information. Ms. Johnson spoke in support of the complainant. Her comments were inaudible.

Rhab Boughn, SFFD representative, said that the department redacted medical related information from the time rolls, but that some time rolls were provided.

Motion finding the Fire Department in violation of Sections 67.26 and 67.27 for failure to keep withholding to a minimum and failure to justify withholding. The Fire Department is instructed to provide the "City-paid benefit" type the Department redacted from the time rolls provided to Mr. Boreen within 5 days after the issuance of this Order of Determination. (Comstock / Pilpel)
Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

07080b: Dan Boreen, Complainant, said that the department redacted information from the Department Head's calendar and did not provide a detailed calendar. Ms. Johnson spoke in support of the complainant. Her comments were inaudible.

Rhab Boughn, SFFD representative, said that the department provided the calendar that they had.

Mr. Boreen, in rebuttal, said that the department's response was untimely.

Public Comment: Kimo Crossman, said that information regarding Department Heads can't be redacted.

Peter Warfield, said that he was glad that the Task Force divided the complaint and urged the Task Force not to combine future complaints.

Motion finding the Fire Department in violation of Sections 67.26 and 67.27 of the Sunshine Ordinance for failure to keep withholding to a minimum and failure to justify withholding. The department is instructed to provide the Department Head's calendar that has not been provided to Mr. Boreen within 5 days after the issuance of this Order of Determination. The Task Force further request that Chief Joanne Hayes-White attend the December 12, 2007, Compliance and Amendments Committee meeting regarding this matter. (Comstock / Wolfe)

Ayes: Craven, Knee, Cauthen, Comstock, Wolfe, Goldman, Williams

Noes: Chu, Pilpel, Chan

07080c Dan Boreen, Complainant, said that he received a copy of the Deputy Chief's calendar but it had nothing on it.

Rhab Boughn, SFFD representative, said that he provided Mr. Boreen the calendar that was given to him.

Mr. Boreen, in rebuttal, said that the calendar is empty and that the Deputy Chief is hiding and withholding information.

Public Comment: Kimo Crossman, said that the Deputy Chief probably has another calendar that is producible.

Peter Warfield, said that the blank calendar pages appear to be a violation of Sections 67.26 and 67.27 of the Ordinance.

Jason Garza, said that non-disclosure is a common practice for departments.

Motion finding the Fire Department in violation of Sections 67.25, 67.26 and 67.27 of the Sunshine Ordinance for failure to respond in a timely manner, failure to keep withholding to a minimum and failure to justify withholding. The department is instructed to provide the Deputy Chief of Administration's calendar that has not been provided to Mr. Boreen within 5 days after the issuance of this Order of Determination. The Task Force further requests that Deputy Chief of Administration Gary Massetani attend the December 12, 2007, Compliance and Amendments Committee meeting regarding this matter. (Comstock / Chan)

Ayes: Knee, Cauthen, Comstock, Wolfe, Chan, Goldman, Williams

Noes: Chu, Pilpel

Excused: Craven

07080d Dan Boreen, Complainant, said that he asked for, but did not receive the assignment officer's signed time rolls.

Rhab Boughn, SFFD representative, said that the department does not have signed time rolls, but provided unsigned time rolls.

Mr. Boreen, in rebuttal, said that the problem with unsigned time rolls is that changes can occur, but that might not be reflected on the time rolls..

Public Comment: Kimo Crossman, said that it's not clear what section of the Ordinance is being violated.

Ms. Johnson's comments were inaudible.

Peter Warfield, said that records must be kept in a professional manner although the Ordinance does not require that signed time rolls be kept.

Motion finding the Fire Department in violation of Section 67.25 of the Sunshine Ordinance for failure to respond in a timely manner. (Pilpel / Knee)

Ayes: Knee, Cauthen, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

Noes: Chu,

Excused: Craven

10. 07081 Public Hearing of complaint filed by Hanley Chan against the Police Department (PD) for violation of Section 67.21 and 67.22 of the Sunshine Ordinance for alleged failure to provide records and oral information.

Speakers: Hanley Chan, Complainant, said that he requested information explaining why his recommended applicant was denied employment, but did not receive the information. Jack Hart, SFFD representative, said that neither an oral nor written request for records was made. He said that Mr. Chan spoke via telephone with Sergeant Tom Craig regarding the matter. He said that pursuant to Section 67.27 Government code Sections 6254 (c), 6254 (d)(2), and 6254 (f) allows the withholding of private and personnel information. Mr. Chan, in rebuttal, said that the date identified in the jurisdictional letter is incorrect. He said that the request was made in September. He said that the department should have written guidelines detailing their hiring criteria.

Public Comment: Kimo Crossman suggested that the matter be continued due

to the lateness of the meeting.

Jason Garza, said that Sgt. Craig Tom should appear to verify what occurred.

Motion finding no violation. (Pilpel / Goldman)

Ayes:, Knee, Chu, Comstock, Pilpel, Wolfe, Goldman

Noes: Williams

Absent: Cauthen

Excused: Craven

Recused: Chan

11. Report: Compliance and Amendments Committee: meeting of November 14, 2007.

Member Knee made the report.

Public Comment: Ms. Johnson's comments were inaudible.

Peter Warfield, said that the minutes should also indicate the posting of information on the web regarding grants.

12. 07061 & 07062 The Compliance and Amendments Committee has referred to the Task Force for further consideration, their recommendation that the San Francisco Library be found in willful misconduct for failure to comply with the Sunshine Ordinance, and failure to comply with the Order of Determination issued by the full Task Force on September 25, 2007; that referral, based on that finding, be forwarded to the District Attorney, Attorney General, the Board of Supervisors, and Ethics Commission for enforcement be considered.

Speakers: Peter Warfield, Complainant, requested a continuance because there are only six members present.

Sue Blackman and Helen Baptiste, Library representatives, opposed a continuance.

Public Speakers: Kimo Crossman, urged the Task Force to grant a continuance.

Allen Grossman said that urged the Task Force to grant a continuance until nine members are present.

Motion to continue. (Wolfe / Goldman)

Ayes: Knee, Comstock, Pilpel, Wolfe, Chan, Goldman

Absent: Cauthen, Williams

Excused: Craven, Chu

13. 07056 The Compliance and Amendments Committee has referred to the Task Force the request for reconsideration of the October 23, 2007, Order of Determination based on new evidence, from the Ethics Commission, and the Committee's recommendation that the Ethics Commission (EC) be found in willful misconduct for failure to comply with the Sunshine Ordinance, and failure to comply with the Order of Determination issued by the full Task Force on October 23, 2007; that referral for enforcement, based on that finding, to the District Attorney (DA), Attorney General, and the Board of Supervisors

(BOS) be considered.

Chair Comstock was recused. Member Knee Chaired the meeting.

Speakers: Myrna Lim, Complainant, said that it is inappropriate for the EC to claim to have new information when they only have "boiler-plate" information.

Supporters: Ms. Johnson said that she has had similar experiences...inaudible.

Jason Garza said the EC is unethical, immoral, and unjust.

John St. Croix, EC representative, said that his November 8 letter outlines his request for reconsideration. He said that the EC is the highest authority to submit referrals to.

Ms. Lim, in rebuttal, said the information provided for reconsideration is not new information.

Public Comment: Kimo Crossman, said that since the EC did not provide the records the matter should be referred to the BOS and the DA.

Allen Grossman, said the he did not hear any new evidence provided by the EC. He said that Section 67.36 of the Ordinances says that the Sunshine Ordinance Supersedes Other Local Laws.

Motion to reconsider the Order of Determination. (Pilpel) The motion failed for lack of a second.

Motion to refer to the Board of Supervisors. (Chu / Goldman)

Ayes: Wolfe, Chan, Goldman, Williams

Noes: Knee, Pilpel

Recused: Comstock

Absent: Cauthen

Excused: Craven, Chu

Member Knee asked that the matter brought back before the full Task Force at its next meeting. Without objection.

14. 06034 The Compliance and Amendments Committee has referred to the Task Force the request for reconsideration of the January 23, 2007 Order of Determination from Jason Grant Garza against the Department of Public Health and SF General Hospital based on new evidence.

Speakers: Jason Grant Garza, Complainant, asked that the matter be continued. He asked what the consequences where to the department for not appearing.

Public Comment: Ms. Johnsons comments were inaudible.

Member Pilpel asked if the Task Force could address the reconsideration and merits at the same time. DCA Llorente responded that generally the merits are not heard head at the time reconsideration is granted.

Motion to continue. (Knee / Goldman)

Ayes: Pilpel

Noes: Knee, Comstock, Wolfe, Chan, Goldman

Absent: Cauthen, Williams

Excused: Craven, Chu

Jason Garza, said that his new evidence is the Settlement Agreement included in the packet. He said it shows that the Hospital violated the law.

Public Comment: Ms. Johnson said that reconsideration is already merited, remainder inaudible.

Peter Warfield, urged the Task Force to take action against the department in support of the complainant for their failure to attend, as required under Section 67.21 (e) of the Ordinance.

Motion to reconsider. (Comstock / Wolfe)

Ayes: Knee, Comstock, Wolfe , Chan

Noes: Pilpel, Goldman

Absent: Cauthen, Williams

Excused: Craven, Chu

15. Discussion re: Canceling and/or rescheduling the December 25, 2007, Task Force meeting.

Public Comment: None

The Task Force, by consensus, canceled the December 25, 2007, Task Force meeting. A Special Task Force meeting is scheduled for Tuesday, January 8, 2008, at 4:00 PM. The Complaint Committee will meet as a committee of the whole.

16. Administrator's Report.

The Administrator made the report.

Public Comment: None

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

Public Comment: Jason Garza, said that by taking public comment on an item prior to the discussions deprives the public from providing sufficient comment.

Member Williams asked the Task Force to reconsider when public comment is allowed on an item.

Barry Tarino complained that the can never get a response to his messages from the Administrator, who he alleges appears to not exist; that the Task Force needs to address why staff is not available. He also said that the MTA is not providing copies of the packet for the public at their meetings.

Member Pilpel said that he is willing to draft a letter to the MTA board.

Ms. Johnson's comments were inaudible.
Sandip Patel said that the responses from the Administrator are timely.
Myrna Lim said that the Administrator has been very responsive and helpful.
Kimo Crossman said that the Administrator has been missing from the office and that he hasn't received a response in over a week. He said that the Supervisor of Records report is overdue. He urged the swearing in of parties and that DCA Llorente review attorney-client privileged documents. He also said that he is unhappy with Member Sheppard's statements at the hearings.

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

Member Pilpel asked that the COB be invited to speak at the hearing.

Chair Comstock asked the Administrator to agendaize the continued matters first on the agenda for the January 8, 2008, special meeting.

Member Pilpel suggested that the Task Force seek to have policy matters that go before the Board of Supervisor that relate to the Sunshine Ordinance first appear before the Task Force.

Member Knee informed members that nominations for the James Madison award are being accepted. For further information go to www.spj.org.norcal.

Chair Comstock asked the Administrator to agendaize a discussion regarding when public comment should be taken on an item, for the next Task Force meeting as requested by Member Williams.

Member Wolfe, suggested that the Chair be called last on roll call votes in the event that there is a tie.

Adjournment

The meeting was adjourned at 10:42 PM

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