Date: January 8, 2008

Item No. 9
File No. 07097

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- [x] **Complaint by: Steve Lawrence v. PUC**
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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.

CITY AND COUNTY OF SAN FRANCISCO

DENNIS J. HERRERA
City Attorney

OFFICE OF THE CITY ATTORNEY

ERNEST H. LLORENTE
Deputy City Attorney

DIRECT DIAL: (415) 554-4236
E-MAIL: ernest.llorente@sfgov.org

December 28, 2007

Sue Cauthen, Chair
Members of the Complaint Committee

Re: Steve Lawrence v. San Francisco Public Utilities Commission (07097)

Dear Chair Cauthen and Members of the Complaint Committee:

This letter addresses the issue of whether the Sunshine Ordinance Task Force ("Task Force") has jurisdiction over the complaint of Steve Lawrence against the San Francisco Public Utilities Commission ("PUC").

BACKGROUND

On November 1, 2007, Steve Lawrence made public records requests by e-mail. Of the records requested, two of them have not been provided. They are: (1) the report on effects of water supply reduction authored by Millicent Borgert and (2) Parson's contracting matrix. On November 21, 2007, Steve Lawrence notified Diane Parker, custodian of records and Mr. Winnecker, head of PUC Communications of the non-response to the two items. As of November 30, 2007, Steve Lawrence states that he has not received a response. In addition, Steve Lawrence stated that the current PUC procedure requires that he only go through Diane Parker, custodian of records for PUC and that the records for review are only available when a conference room is also available. Steve Lawrence believes that the current procedure delays access to the records.

COMPLAINT

On November 30, 2007, Steve Lawrence filed a complaint against the PUC alleging violations of the Sunshine Ordinance and the Public Records Act.

SHORT ANSWER

Based on Complainant's allegation and the applicable sections of the Sunshine Ordinance and the California Public Records Act, which are cited below, the Sunshine Ordinance Task Force ***does*** have jurisdiction over the allegation. The allegations are covered under (67.21 and 67.25) of the Ordinance.

DISCUSSION AND ANALYSIS

Article I Section 3 of the California Constitution as amended by Proposition 59 in 2004, the State Public Records Act, the State Brown Act, and the Sunshine Ordinance as amended by

Proposition G in 1999 generally covers the area of Public Records and Public Meeting laws that the Sunshine Ordinance Task Force uses in its work.

The Sunshine Ordinance is located in the San Francisco Administrative Code Chapter 67. All statutory references, unless stated otherwise, are to the Administrative Code. Section 67.21 generally covers requests for documents and Section 67.25 covers Immediate Disclosure Requests. CPRA Section 6253 generally covers Public Records Requests.

SHORT ANSWER

Based on Complainant's allegation and the applicable sections of the Sunshine Ordinance and the California Public Records Act, which are cited below, the Sunshine Ordinance Task Force ***does*** have jurisdiction over the allegation. Steve Lawrence filed a public records request for public records. The PUC responded to the request but and allegedly failed to respond on two items. On the face of the complaint, the Task Force has jurisdiction over the complaint. The Task Force will have to determine whether or not the PUC violated the Sunshine Ordinance and/or the Public Records Act.

DISCUSSION AND ANALYSIS

The California Public Records Act is located in the State Government Code Sections 6250 et seq. All statutory references, unless stated otherwise, are to the Government Code. Section 6253 provides for the process of obtaining public records and also has the ten-day rule. Section 6255 requires written justification for any withholding of public records.

The Sunshine Ordinance is located in the San Francisco Administrative Code Chapter 67. All statutory references, unless stated otherwise, are to the Administrative Code.

Section 67.21 addresses general requests for public documents and provides for a ten-day rule for responding to regular public records requests. Section 67.27 provides that any withholding of public records must be justified in writing.

In this case, Lawrence made a public records request on November 1, 2007 and received a response later in November. However, Lawrence alleges that he did not receive a response to two of the requested items and that more than ten days have elapsed from the date of his request. The Task Force has jurisdiction to hear this complaint and will have to determine if the PUC violated the Ordinance and/or the Public Records Act.

<complaints@sfgov.org>
11/30/2007 09:52 AM

To <sotf@sfgov.org>
cc
bcc
Subject Sunshine Complaint

History: This message has been forwarded.

Submitted on: 11/30/2007 9:52:32 AM

Department: SFPUC

Contacted: Diane Parker

Public_Records_Violation: Yes

Public_Meeting_Violation: No

Meeting_Date:

Section(s)_Violated: 67.21(a), 67.21(d)

Description: Firstly, SFPUC requires that I request documents through Diane Parker, regardless of who is their custodian. Ms. Parker requires that an appointment be made to see the documents, when a certain conference room is available, and within ten days of her offering them. Most often they are offered only after "security review", a process that is usually lengthy, taking more than ten days. If Ms. Parker answers a request, it is often on the tenth day (and then security review commences). So the day of offer is usually a month after the request, and then one has ten days to make an appointment, conference room permitting, to come in for review. None of this is consistent with the Sunshine Ordinance.

Secondly, requests were made by email 11/1/07. Two requests received no response whatever: items 4 and 6, which are: 4. Report on effects of water supply reduction (said to be due early Fall--Millicent Bogert to CAC 4/06); and 6. Parson's contracting matrix. On Nov. 21 I notified Ms. Parker that I had received no response, asking for one, and, pursuant to agreement, I also notified Mr. Winnicker, who had promised help if needed in such circumstances in settlement of a previous Sunshine appeal; Mr. Winnicker is head of SFPUC Communications. I have received no response from either Ms. Parker or Mr. Winnicker. SFPUC has failed to respond to a request within ten days.

By this complaint I ask: 1. for a ruling that SFPUC comply with the Sunshine Ordinance and make its documents pertinent to its $4.3 billion Water System Improvement Program available to the public including me expeditiously and without the need for going through Ms. Parker and her appointment routine; 2. in no less than ten days, that SFPUC reply to requests, including items 4 and 6 of the reqest of 11/1/07; 3. that SFPUC be declared not in compliance with the Sunshine Ordinance in these two instances, and that all proper steps be taken for the official record to reflect the same; and 4. for such other and further relief as the Task Force deems just.

Hearing: Yes

Date: 11-30-07

Name: Steve Lawrence

Address: 55 Montalvo Ave

City: San Francisco

Zip: 94116

Phone: 415 665-9450

Email: splawrence@sbcglobal.net

Anonymous:

User Data

Client IP (REMOTE_ADDR) : 71.146.24.19
Client IP via Proxy (HTTP_X_FORWARDED_FOR) :

"Parker, Diane"
<DParker@sfwater.org>
12/21/2007 03:31 PM

To "SOTF" <sotf@sfgov.org>
cc "Gautier, Suzanne" <SGautier@sfwater.org>, "Winnicker, Tony" <TWinnicker@sfwater.org>
bcc
Subject RE: Special SOTF Hearing Reminder: January 8, 2008

History: This message has been forwarded.

Frank,
The SFPUC does not dispute that the SOTF has jurisdiction over Complaint #07097_Steve Lawrence v. PUC. Should a hearing be called, we will discuss the merits of his complaint.

Diane Parker
Sunshine Request Coordinator
publicrecords@sfwater.org

SOTF/SOTF/SFGOV
01/02/2008 10:03 AM

To "Steve Lawrence" <splawrence@sbcglobal.net>
cc
bcc
Subject Re: PUC Response: #07097_Steve Lawrence v. Public Utilities Commission

Mr. Lawrence,

The answer to your question is yes. Task Force procedures requires attendance by both parties.

Sunshine Ordinance Task Force
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689
SOTF@SFGov.org
OFC: (415) 554-7724
FAX: (415) 554-7854

Complete a SOTF Customer Satisfaction Survey by clicking the link below.
http://www.sfgov.org/site/sunshine_form.asp?id=34307
"Steve Lawrence" <splawrence@sbcglobal.net>

"Steve Lawrence" <splawrence@sbcglobal.net>
12/21/2007 03:46 PM

To "SOTF" <sotf@sfgov.org>
cc
Subject Re: PUC Response: #07097_Steve Lawrence v. Public Utilities Commission

Given that jurisdiction is undisputed, is there need for me (claimant, or appellant) to attend the Jan. 8 hearing?

Steve Lawrence

----- Original Message -----
From: "SOTF" <sotf@sfgov.org>