

Date: January 22, 2008

Item No. 1

File No. \_\_\_\_\_

## SUNSHINE ORDINANCE TASK FORCE

### AGENDA PACKET CONTENTS LIST\*

- Draft Minutes: Task Force for January 8, 2008**
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Completed by: Chris Rustom

Date: January 16, 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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**SUNSHINE ORDINANCE TASK FORCE  
DRAFT MINUTES**

Tuesday, January 8, 2008  
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 was called to order at: 4:00 P.M.

**Roll Call**

Present: Craven, Knee, Cauthen, Chu (out at 9:30), Comstock, Wolfe (in at 5:45), Chan (out at 8:00), Goldman, Sheppard (out at 6:00)

**Excused:** Pilpel, Williams

**Agenda Changes:** Items were heard in the following order: 2, 3, 1, 4, 26, 5, 6, 8, 7, 9, 11, 10a, 12, 10c, 14, 10d, 15, 10e, 16, 10f, 17, 10g, 18, 20, 21, 22, 23, 24, 25, 27

**Deputy City Attorney:** Ernie Llorente  
**Administrator:** Frank Darby  
Chris Rustom

**Agenda Changes:**

Member Cauthen asked that items 5 through 9 be heard in following order: 5, 6, 8, 7, 9. Without objection.

Member Craven asked that for each complaint in item #10 (a-h) that immediately after jurisdiction is accepted on the item #10 that the public hearing on the matter be addressed. Without objection.

Member Goldman asked that Members comments be limited to 5 minutes/complaint. Without objection.

1. 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 (EC), and

the Committee's recommendation that the Ethics Commission be found in official misconduct for willful 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, Attorney General, and the Board of Supervisors be considered.

Chair Comstock was recused from this item. Vice-chair Craven chaired the meeting.

Speakers: Myrna Lim, Complainant, asked that the matter be referred to the Attorney General (AG). She said that the EC is not accountable to anyone.

Public Comment: None

Member Sheppard recommended that the matter be referred to the AG. Member Knee said that since Ms. Lim waived confidentiality the records should have been provided.

Motion to refer this matter to the Attorney General for advice and investigation, and potential enforcement with a finding or recommendation of official misconduct for willful failure to comply with the Sunshine Ordinance. (Knee / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Chan, Goldman

Absent: Wolfe

Recused: Comstock

Excused: Pilpel, Williams

Member Sheppard asked if Member Knee is referring the matter to the AG or an inquiry or enforcement. Member Knee said that he wanted enforcement based on the Task Forces determination. That it would then be up to the AG to decide whether they agree with the Task Forces determination as to the nature of the violation.

DCA Llorente said that the AG may want to do their own determination and are not bound by the Task Forces determination, although it may influence their decision.

2. 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 official misconduct for willful 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.

Member Cauthen asked to be recused. (Cauthen/Knee) Without objection.

Speakers: Peter Warfield, Complaint, said that nothing has changed and urged the Task Force to move forward with the recommendation. Allen Grossman, in

support, said that the Library is not following its own by-laws. He said that it is not appropriate for the Library to not attend, and urged the Task Force to refer the matter.

Public Comment: Jason Grant Garza said that it's a disgrace to the Complainant for the Library to not appear for the hearing.

Member Craven said that the Library has not justified withholding, and that she isn't convinced that the violation qualifies as official misconduct.

Motion to refer this matter to the Attorney General for further investigation, commentary and advice on the legality of the withholding. ( Craven / Knee)

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

Absent: Wolfe

Recused: Cauthen

Excused: Pilpel, Williams

3. 06034 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 Garza, Complainant, said that he requested a copy of his medical screening, but it was not provided. He said that the SF General Hospital failed to do a medical screening and was found in violation of the law.

Public comment: Ray Hartz urged the Task Force to approve reconsideration.

Member Sheppard confirmed with Mr. Garza that there was no medical screening.

Chair Comstock said that since there is no document it can't be produced. Member Cauthen said that the problem is that the alleged document can't be produced.

The Task Force took no action on this matter.

4. 07071 Request for reconsideration of the October 23, 2007 Order of Determination from Dee Modglin against the Mayor's Office of Housing based on new evidence.

Speaker: Dee Modglin, Complainant, said that she is still trying to gain full access to the list of e-mails requested. She said that MOH's violation is for failure to provide records, untimely response, and failure to provide assistance. Laura Carroll, in support, said that an employee at MOH told her that some documents were withheld to prohibit access to certain documents due to possible litigation. Douglas Shoemaker, Respondent, said that Ms. Carroll statement is a fabrication; that no employee would make such a statement. He said that the department has turned over all records that they have, and that there are no withheld emails.

Ms. Modglin, in rebuttal, said that the Task Force should make MOH accountable.

Public comment: Ray Hartz said that due to personal experience he believes that the documents are being withheld.

Silvia Johnson's comments were inaudible.

In response to Member Craven's question Ms. Modglin said that she did not receive requested e-mails from Matt Franklin, Marvilyn Rance, Mary Huang, Sonia Delgado-Shamburg, Rachel McManus, Sondra Egan, and Doug Shoemaker. She also did not receive a signed Memo of Understanding, the City Planning code and procedures, and policy and procedures.

In response to Member Craven, Mr. Shoemaker said that all records have been provided.

The Task Force took no action on this matter.

**The Sunshine Ordinance Task Force Complaint Committee is Sitting as a Committee of the Whole for Item #5 to #9 to Determine Jurisdiction only.**

5. 07093 Determination of jurisdiction of complaint filed by Patrick Monk against Supervisor Sophie Maxwell for alleged violation of Section 67.15 (e) of the Ordinance for delaying public comment on an item at the October 29, 2007, Land Use and Economic Development Committee.

Speaker: Dr. Ahimsa Porter Sumchai, in support, said that Mr. Monks is ill and unable to attend. She said that the complaint is identical to her complaint and could be combined.

Motion to accept jurisdiction (Cauthen / Goldman)

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

Absent: Wolfe

Excused: Pilpel, Williams

6. 07094 Determination of jurisdiction of complaint filed by Kimo Crossman against the City Attorney's Office for alleged violation of Sections 67.21 (b) and (l) and 67.21-1 of the Sunshine Ordinance for failure to respond to a request for records, failure to provide records, and failure to post the Department Heads calendar on the website.

Speakers: Kimo Crossman, Complainant, urged jurisdiction. Alexis Thompson, Respondent, said that she does not oppose jurisdiction.

Motion to accept jurisdiction (Cauthen / Goldman)

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

Absent: Wolfe

Excused: Pilpel, Williams

7. 07095 Determination of jurisdiction of complaint filed by Kimo Crossman against the City Attorney's Office for alleged violation of Sections 67.21 (b) and (l) and

67.21-1 of the Sunshine Ordinance for failure to provide detailed billing records.

Speakers: Kimo Crossman, Complainant, urged jurisdiction. Alexis Thompson, Respondent, said that she does not oppose jurisdiction.

Motion to accept jurisdiction (Craven / Cauthen)

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

Absent: Wolfe

Excused: Pilpel, Williams

8. 07096 Determination of jurisdiction of complaint filed by Kimo Crossman against the Mayor' Office for alleged violation of Sections 67.21 (b) and (l) and 67.21-1 of the Sunshine Ordinance for failure to respond to a request for records, failure to provide records, and failure to post the Department Heads calendar on the website.

Speakers: Kimo Crossman, Complainant, urged jurisdiction.

Motion to accept jurisdiction (Cauthen / Goldman)

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

Absent: Wolfe

Excused: Pilpel, Williams

9. 07097 Determination of jurisdiction of complaint filed by Steve Lawrence against the Public Utilities Commission for alleged violation of Sections 67.21 (a) and (d) of the Sunshine Ordinance for failure to respond to a request for records and failure to provide requested records.

Member Craven asked to be recused because her spouse is employed by the PUC. Without objection.

Speakers: None.

Motion to accept jurisdiction (Goldman / Knee)

Ayes: Knee, Cauthen, Chu, Comstock, Chan, Goldman

Absent: Wolfe

Recused: Craven

Excused: Pilpel, Williams

10. Report from the Complaint Committee meeting of December 11, 2007.

Member Cauthen made the report.

- a. 07082 Determination of jurisdiction of complaint filed by Wayne Lanier against the Department of Telecommunications and Information Services for violation of Sections 67.21 (b), (c), 67.25 (b), and 67.29-7 (a) of the Sunshine Ordinance for alleged failure to provide records, failure to justify withholding, untimely response, and failure to maintain and preserve records.

Speakers: None

Motion to accept jurisdiction. ( Cauthen / Goldman )

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

Excused: Pilpel, Williams

- b. 07085 Determination of jurisdiction of complaint filed by Mr. Alvin against the Grants for the Arts for alleged failure to provided requested records and information.

Continued by agreement of both parties prior to the meeting.

- c. 07087 Determination of jurisdiction of complaint filed by Allen Grossman against the Mayor's Office for alleged failure to respond to a Immediate Disclosure Request submitted on October 2, 2007, and repeated on October 19, 2007.

Speakers: None

Motion to accept jurisdiction. ( Cauthen / Goldman )

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

Excused: Pilpel, Williams

- d. 07088 Determination of jurisdiction of complaint filed by Kimo Crossman against the Assessor's Office for alleged violation of Sections 67.1, 67.4 (a), 67.21 (a) and (b), 67.25 (a) and (d), 67.26, 67.27, and 67.34 of the Sunshine Ordinance, Government Code Sections 6253 (a) and (c), 6255 (a), and Constitution Article I, Section 3, for failure to provide requested records, untimely response, failure to provide passive meeting notice, invalid invocation of voluminous documents extension, failure to incrementally deliver records, willful failure and official misconduct.

Speakers: None

Motion to accept jurisdiction. ( Cauthen / Knee )

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

Excused: Pilpel, Williams

- e. 07089 Determination of jurisdiction of complaint filed by Kimo Crossman against the District Attorney's Office (DA) for alleged violation of Sections 67.1, 67.4 (a), 67.21 (a), (b), (i), (k) and (l), 67.21-1, 67.25 (d), 67.26, 67.27, 67.29-7 (a) and 67.34 of the Sunshine Ordinance, Government Code Sections 6253 (a) and (c), 6255 (a), and Constitution Article I, Section 3, for failure to provide requested records, untimely response, invalid redactions, and invalid exemption for Attorney Client communications.

Speakers: Kimo Crossman, Complainant, said that the DA refused to provide e-mails with the City Attorney regarding Sunshine. He urged the Task Force to accept jurisdiction. Sandip Patel, for Respondent, said that the e-mails requested are attorney-client privileged documents. He said that the DA is a constitutional body that is not subject to local laws.

Mr. Crossman, in rebuttal, said that he requested administrative records that are subject to local laws.

Public Comment: Wayne Lanier, said that San Francisco is a chartered entity and applies to the DA.

Allen Grossman said that the DA is not a State office and is subject to the Sunshine Ordinance.

Dr. Ahimsa Porter Sumchai said that the California Public Records Act and the Sunshine Ordinance applies to the DA.

Member Craven said that the administrative records of the DA are subject to the Sunshine Ordinance, since they are not subject to law enforcement laws.

Motion to accept jurisdiction. ( Craven / Goldman )

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

Excused: Pilpel, Williams

- f. 07090 Determination of jurisdiction of complaint filed by Kimo Crossman against the Municipal Transportation Agency (MTA) and Commission for alleged violation of Sections 67.1, 67.24 (a)(2) and (e)(3)(iii), and 67.21 (b) of the Sunshine Ordinance for failure to provide records for review in a timely manner, invalid invocation of an extension for records access, and failure to provide a summary of verbal positions.

Member Wolfe informed the Task Force that he has had contractual discussions with the MTA, and that he can be fair and impartial.

Speakers: Kimo Crossman, Complainant, urged the Task Force to accept jurisdiction. Murray Bond, for Respondent, said that he did not agree to jurisdiction and did not receive notice of the hearing. He said that the department did not receive a request for contracts, and that they don't have a franchise agreement.

DCA Llorente, explained the criterion by which jurisdiction is determined. Mr. Bond then stipulated to jurisdiction.

Public comment: Silvia Johnson said that the health code issue...inaudible.

Motion to accept jurisdiction. ( Knee / Goldman )

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

Absent: Chan

Excused: Pilpel, Williams

- g. 07091 Determination of jurisdiction of complaint filed by Dr. Ahimsa Porter Sumchai against Supervisor Sophie Maxwell for allegedly delaying public comment on an item at the October 29, 2007, Land Use and Economic Development Committee.

Speakers: None



Public comment: Silvia Johnson's comments were inaudible.  
Ray Hartz said that the complainant should win by default if the department does not show.

Motion to accept jurisdiction. ( Cauthen / Goldman )  
Ayes: Craven, Knee, Cauthen, Chu, Comstock, Wolfe, Goldman  
Absent: Chan  
Excused: Pilpel, Williams

- h. 07092 Determination of jurisdiction of complaint filed by Patrick Monette-Shaw against the Board of Supervisors and Human Resources Department for alleged violation of Sections 67.10, 67.8 (a)(5) of the Sunshine Ordinance and Government Code Section 54957.6 (a) for improperly holding a closed session.

Continued by agreement of both parties prior to the meeting.

11. 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.

Speakers: Ray Hartz, Complainant, said that he went to Supervisor Peskin's office to request assistance, but was denied assistance. Silvia Johnson, in support, said that the facts and evidence are not...inaudible.

Member Cauthen suggested that the hearing be postponed, so that Supervisor Peskin's office can be notified to appear at the hearing.

Public comment: Dr. Ahimsa Porter Sumchai said that a similar incident once occurred with her when she requested assistance from Supervisor Peskin's office.

Peter Warfield said that the Ordinance requires the attendance by the department and that their absence hinders a fair judgment. He urged the Task Force to take firm action against the department.

Allen Grossman asked the Task Force to consider the fairness of the procedures. He said that the respondent doesn't need another opportunity to appear.

Member Knee moved to find a violation of Section 67.21 (e).

DCA Llorente clarified the language of Section 67.21 (e) and said that no records were withheld.

Motion finding a violation of Section 67.21 (e) of the Sunshine Ordinance for failure to send an authorized representative to the hearing to respond to the complaint. (Knee / Goldman)

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

12. 07082 Public Hearing, complaint filed by Wayne Lanier against the Department of

Telecommunications and Information Services for violation of Sections 67.21 (b), (c), 67.25 (b), and 67.29-7 (a) of the Sunshine Ordinance for alleged failure to provide records, failure to justify withholding, untimely response, and failure to maintain and preserve records.

Bruce Wolfe said that he has had several meetings with Mr. Fraser on a different matter but can be fair and impartial.

Speakers: Wayne Lanier, Complainant, said that all issues have been resolved except the matter of redactions. Silvia Johnson, in support, said...inaudible. Barry Fraser, for Respondent, said that a written response justifying the redactions was provided. He said that they offered to meet with Mr. Lanier to discuss the redactions.

Mr. Lanier, in rebuttal, said that the issue is how redactions are carried out. He said that redactions should be reviewed on a case by case basis.

Public comment: Ray Hartz said that not disclosing full redactions is contrary to the Sunshine Ordinance.

In response to Member Wolfe's question Mr. Fraser said that a paper document was used and redacted because they were not able to redact the electronic file.

Member Craven suggested that DTIS explore the ability to redact electronic documents. She said the department failed to justify each specific redaction as required in section 67.26 of the ordinance.

Motion finding a violation of Section 67.26 of the Sunshine Ordinance for failure to specifically identify what was redacted and why. (Craven / Knee)  
Ayes: Craven, Knee, Cauthen, Chu, Comstock, Wolfe, Chan, Goldman  
Excused: Pilpel, Williams

13. 07085 Public Hearing, complaint filed by Mr. Alvin against the Grants for the Arts for alleged failure to provide requested records and information.

Continued by agreement of both parties prior to the meeting.

14. 07087 Public Hearing, complaint filed by Allen Grossman against the Mayor's Office for alleged failure to respond to a Immediate Disclosure Request submitted on October 2, 2007, and repeated on October 19, 2007.

Speaker: Allen Grossman, Complainant, said that he has not received anything in response to his request.

Public Comment: Kimo Crossman urged the Task Force to find the department in willful failure for failure to appear.

Ray Hartz, said that the department is in contempt.

Silvia Johnson...comments inaudible.

Peter Warfield said that rebuttal is not prohibited for non-attendance by the department. He urged the Task Force to allow the Complainant to provide a

rebuttal.

Member Cauthen described a similar problem that she has had getting a response from the Mayor's office. She suggested that the Chair write a letter to them regarding their lack of response and attention to Sunshine matters.

Member Wolfe asked and received clarification from Member Craven that her motion did not include a violation of Section 67.25 because the records requested are two to three years old.

Member Wolfe and Member Knee asked that the motion be amended to include a violation for untimely response.

Chair Comstock asked that the motion be amended to add a violation of Section 6253 of the California Government Code

Motion finding a violation of Sections 67.21 (b) and (e), and 67.25 (a) of the Sunshine Ordinance and Section 6253 of the California Government Code for failure to provide records, failure to send an authorized representative to the hearing to respond to the complaint, and failure to provide a response within 24 hours with a timeframe for compliance. (Craven / Cauthen)  
Ayes: Craven, Knee, Cauthen, Chu, Comstock, Wolfe, Chan, Goldman  
Excused: Pilpel, Williams

15. 07088 Public Hearing, complaint filed by Kimo Crossman against the Assessor's Office for alleged violation of Sections 67.1, 67.4 (a), 67.21 (a) and (b), 67.25 (a) and (d), 67.26, 67.27, and 67.34 of the Sunshine Ordinance, Government Code Sections 6253 (a) and (c), 6255 (a), and Constitution Article I, Section 3, for failure to provide requested records, untimely response, failure to provide passive meeting notice, invalid invocation of voluminous documents extension, failure to incrementally deliver records, willful failure and official misconduct.

Speakers: Kimo Crossman, Complainant, said that the 14 day extension imposed by the department was not appropriate. He said that he did not receive the passive meeting notice on WiFi, and did not receive the records requested until later. Zoon Nugyen, for Respondent, said that the Assessors calendar was provided for a five month review after reviewing it for redactions. She said that their office did not have a passive meeting on WiFi and therefore was no reason to provide notice. She said that the Assessor attended a press conference on his personal time, where WiFi was discussed.

Member Wolfe said the he is uncomfortable sitting on the matter and asked to be recused. Without objection.

Member Chan said that he knows Ms Nugyen, but can be fair and impartial.

Mr. Crossman, in rebuttal, said that the meeting was a passive meeting. He said that not redactions were made on the calendar that he received, so there was no need for the delay.

Public comment: Wayne Lanier said that the meeting was a passive meeting. Ray Hartz said that the public has a right to the calendar in hopes of attending the meeting.

Bruce Wolfe urged the Task Force to find out whether Assessor Ting once headed meetings on WiFi. He said that he is not certain whether there is a conflict.

Peter Warfield said that there is no need to review the Assessors calendar to remove the names of meetings with citizens. He said that the Assessors office need to provide justification if they have done so.

Dr. Ahimsa Porter Sumchai asked what is the boundary between public and private activities. She said that she received a promo in support of WiFi from Mr. Ting.

Chair Comstock said that he finds no merit in the passive meeting issue because it was a press conference.

Motion finding a violation of Section 67.25 (d) of the Sunshine Ordinance for failure to provide records on a rolling basis. The Department is instructed to inform the Task Force and Mr. Crossman as to whether any entries were deleted from the calendar prior to providing the requested records, and to describe the type of entries that were deleted and an explanation for the deletions. (Comstock / Craven)

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

Recused: Wolfe

Excused: Pilpel, Williams

16. 07089 Public Hearing, complaint filed by Kimo Crossman against the District Attorney's Office for alleged violation of Sections 67.1, 67.4 (a), 67.21 (a), (b), (i), (k) and (l), 67.21-1, 67.25 (d), 67.26, 67.27, 67.29-7 (a) and 67.34 of the Sunshine Ordinance, Government Code Sections 6253 (a) and (c), 6255 (a), and Constitution Article I, Section 3, for failure to provide requested records, untimely response, invalid redactions, and invalid exemption for Attorney Client communications.

Speakers: Kimo Crossman, Complainant, said that he asked for e-mail communications between the DA and the City Attorney's office regarding Sunshine matters, but they were not provided. He said that the e-mails that he received were inappropriately redacted and was untimely. He asked for a violation of the Sunshine Ordinance, Cal Public Records Act, and Cal Constitution. Sandip Patel, for Respondent, said that the agency is under state law and that city laws cannot waive their privilege. He said that all e-mails requested were provided except those that are attorney-client privileged. He said that the DA does not waive the privilege and will not provide the e-mails.

Mr. Crossman, in rebuttal, said that he is still waiting for a written response that justifies the withholding. He said that local laws can override state law in some cases.

Public comment: Allen Grossman said that the DA is not a state agency on this issue.

Wayne Lanier said that cooperation by the DA is better than foot dragging.  
Ray Hartz said that the DA doesn't have a legal argument for claiming to be under state law.

Silvia Johnson said she thinks that a lot of people who are not here today...inaudible.

Kristin Chu suggested that the matter be continued to allow the DA to provide written justification for their position.

DCA Llorente said that administrative matters of the DA fall under the local charter and are not subject to state law.

Motion finding a violation of Sections 67.24 (b)(iii), 67.26, and 67.27 of the Sunshine Ordinance for failure to provide advice on compliance with, analysis of, an opinion concerning liability, failure to keep withholding to a minimum, and failure to provide justification for the withholding. (Comstock / Goldman)

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

Absent: Cauthen

Excused: Pilpel, Williams

17. 07090 Public Hearing, complaint filed by Kimo Crossman against the Municipal Transportation Agency and Commission for alleged violation of Sections 67.1, 67.24 (a)(2) and (e)(3)(iii), and 67.21 (b) of the Sunshine Ordinance for failure to provide records for review in a timely manner, invalid invocation of an extension for records access, and failure to provide a summary of verbal positions.

Speakers: Kimo Crossman, Complainant, said that the focus of his complaint is on the 10 day rule only. He said that the MTA made changes to a contract within 10 days prior to its approval and 30 days after it was approved. Murray Bond, for Respondent, said that the MTA responded to the request from Mr. Crossman by providing him with a copy of the draft agreement. Mr. Crossman, in rebuttal, said that under the Ordinance the MTA can't make changes to a contract 10 days prior to its approval, however the MTA continued to make changes.

Public comment: Silvia Johnson said that changes in the code...inaudible.  
Ray Hartz said that the department's response does not address the matter.

Member Craven asked Mr. Bond if the contract was amended with less than 10 days. Mr. Bond responded that he didn't know.

Motion finding a violation of Section 67.24 (a)(2) of the Sunshine Ordinance for altered a contract for public review less than 10 days prior to the presentation of the agreement for approval by a policy body. (Craven / Wolfe)

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

Absent: Chan

Excused: Pilpel, Williams

18. 07091 Public Hearing, complaint filed by Dr. Ahimsa Porter Sumchai against

Supervisor Sophie Maxwell for allegedly delaying public comment on an item at the October 29, 2007, Land Use and Economic Development Committee.

Speakers: Dr. Ahimsa Porter Sumchai, Complaint, said that Supervisor Maxwell violated the public's trust and is in violation of the Sunshine Ordinance, her freedom of speech, and freedom of the press. She said that item 1 on the agenda was postpone to the end of the meeting, however Supervisor Maxwell did not make an announcement that the item was being postponed. She provided video evidence. Ms. Sumchai said that the Supervisor is also in contempt for not appearing at the hearing. Silvia Johnson, in support, said...inaudible.

Public comment: Ray Hartz said that cutting off public comment give the appearance that the public's freedom of speech is not important.

Motion finding a violation of Section 67.15 (e), and 67.21 (e) of the Sunshine Ordinance for failure to announce an agenda change and failure to send an authorized representative to the hearing to respond to the complaint. (Cauthen / Goldman)

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

Absent: Chan

Excused: Pilpel, Williams

Member Knee suggested that a letter also be sent to Supervisor Maxwell indicating that the violation of Section 67.15 (d) could be grounds for overturning any decision on any item at the meeting. He said that every item was out of order.

Member Craven said that she doesn't believe that Member Knees statement is correct unless there is provision in the Brown Act with similarly requires what Section 67.15 (e) requires. She said that the Sunshine Ordinance does not provided for invalidation for violation of public testimony rules.

19. 07092 Public Hearing, of complaint filed by Patrick Monette-Shaw against the Board of Supervisors and Human Resources Department for alleged violation of Sections 67.10, 67.8 (a)(5) of the Sunshine Ordinance and Government Code Section 54957.6 (a) for improperly holding a closed session.

Continued by agreement of both parties prior to the meeting.

20. Report: Compliance and Amendments Committee: meeting of December 12, 2007.

Member Knee made the report.

21. 07057 The Compliance and Amendments Committee has referred to the Task Force, for further consideration, their recommendation that Supervisor Aaron Peskin be found in official 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 August 28, 2007; that referral, based on that finding, to the

Ethics Commission, District Attorney, Board of Supervisors, and the Attorney General be considered.

Chair Comstock was recused. Vice-chair Craven chaired the meeting.

Speaker: Jeffe Ente, Complainant, said that he is not aware of any effort to the Supervisor to comply with the Task Force's Order of Determination.

Public comment: Kimo Crossman said that this issue is happening on a national level and urged referral of the matter.

Ray Hartz said that there is a continued pattern by the Supervisor of not appearing. He urged that additional action be taken.

Silva Johnson...comments inaudible.

In response to Member Wolfe's question the Administrator indicated that he did not receive a request from the Supervisors office to retrieve prior e-mails.

Motion to refer this matter to the Ethics Commission and the Attorney General for official misconduct for willful failure to comply with the Sunshine Ordinance, failure to comply with the Order of Determination, and failure to send an authorized representative to the hearing and/or written response to the complaint ( Craven / Goldman)

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

Absent: Chan

Recused: Comstock

Excused: Pilpel, Williams

22. 07077

The Compliance and Amendments Committee has referred to the Task Force, for further consideration, their recommendation that the Office of the District Attorney be found in official 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 November 27, 2007; that referral, based on that finding, to the Ethics Commission, Board of Supervisors, and the Attorney General be considered. (action item) (20 min) (attachment)

Speakers: Allen Grossman, Complainant, said that the information requested still has not been provided. Sandip Patel, for Respondent, said that the DA stands on its prior statements because providing the requested information would compromise the DA's security.

Mr. Grossman, in rebuttal, said that other departments don't feel that providing Administrative records will jeopardize their security.

Public comment: Ray Hartz said that there is a pattern of City representatives not appearing or unable to answer questions. He said that Departments don't feel that the Task Force is important.

Wayne Lanier said that something must be done to ensure that the DA is preserving public records.

Kimo Crossman said that the GRM log was provided by DTIS without redactions. He urged referral to that Attorney General listing a violation of CPRA. He also recommended that the matter be referred to the Board of

Supervisors with a request for a hearing.

Member Wolf said that the GRM document is a smoking gun.

Motion to refer this matter to the Ethics Commission and the Attorney General for comment and advice, and potential enforcement with a finding of official misconduct for willful failure to comply with the Sunshine Ordinance, failure to comply with the Order of Determination, and Government Code Sections 6253 and 6253.9 of the California Public Records Act ( Comstock / Goldman)

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

Absent: Chan

Recused: Comstock

Excused: Pilpel, Williams

23. a. Approval of minutes of November 26, 2007 special meeting.

Public Comment: None

Motion to approve the November 26, 2007 Special meeting, as amended. ( Comstock / Craven ) Without objection.

- b. Approval of minutes of November 27, 2007 regular meeting.

Public Comment: None

Motion to approve the November 27, 2007 minutes, as amended.( Craven / Goldman ) Without objection.

24. Discussion regarding when should public comment be taken on an item.

Chair Comstock, referred the matter to the Rules Committee for discussion and recommendation. Without objection.

Public Comment: Peter Warfield suggested that public comment be taken after the Task Force has had some discussion on the matter.

Kimo Crossman said that he agrees with Mr. Warfield.

Ray Hartz said that taking public comment after the Task Forces comments is better.

Member Wolfe said that the Rules Committee will also agendize a discussion regarding what to do when a party to a complaint is absent.

25. Administrator's Report.

The Administrator made the report.

Public Comment: None

26. 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: Allen Grossman said that he understood from a prior Task Force (TF) meeting that if only six members were present the matter would not be heard. He said that the TF is rewarding the City librarian for not appearing at the hearing by sending the matter to the AG.

Ray Hartz said that Complainants should have the opportunity to correct misstatements.

Silvia Johnson's comments were inaudible.

Peter Warfield said that the TF process should be amended to allow the complainant to correct misstatements or interpretations made as a result of the discussions. He said that public comment should also be taken on revised motions, that departments should be in attendance, and that large agenda's should be split between two meetings.

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

Member Knee said that the deadline for nominations for the James Madison award is Wednesday, January 9, 2008. For further information go to [www.spj.org.norcal](http://www.spj.org.norcal).

Chair Comstock said that Member Chu is working on the Annual report, which will be agendaized for review at the January 22, 2008 regular meeting.

**Adjournment**

**The meeting was adjourned at 9:45 PM**

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

