

Date: July 22, 2008

Item No. 1

File No. _____

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- Draft Minutes: Task Force for June 24, 2008**
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Completed by: Frank Darby

Date: July 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, June 24, 2008
4:00 p.m., City Hall, Room 408

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Kristin Chu (Chair)
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Allyson Washburn	Seat 11	Marjorie Ann Williams
Seat 5	Ketaki Gokhale		
Seat 6	James Knoebber	Ex-officio	Angela Calvillo
Seat 7	David Pilpel	Ex-officio	Harrison Sheppard

Call to Order The meeting was called to order at: 4:03 P.M.

Roll Call **Present:** Craven, Knee, Cauthen, Washburn, Knoebber, Pilpel (in at 4:18), Chu, Chan (in at 4:05), Sheppard
Excused: Gokhale, Goldman, Williams

Agenda Changes: Item #11 was heard after item # 5

Deputy City Attorney: Ernie Llorente
Administrators: Frank Darby
Chris Rustom

1. Continued approval of minutes of April 22, 2008, meeting.

Speakers: None

Motion to approve the minutes of April 22, 2008 (Craven / Cauthen).

Ayes: Craven, Knee, Cauthen, Washburn, Knoebber, Chu, Chan

Absent: Pilpel

Excused: Gokhale, Goldman, Williams

2. Continued approval of minutes of May 27, 2008, meeting.

Public Comment: Allen Grossman, said the third and fourth paragraphs in item 3 regarding the role of the Task Force's counsel was incorrect. He bemoaned the fact that he had to come to City Hall and pay \$1.00 per audiotape. He suggested placing the audio on the Website.

Motion to approve the minutes of May 27, 2008 (Craven / Knee).
Ayes: Craven, Knee, Cauthen, Washburn, Knoebber, Pilpel, Chu, Chan
Absent: Pilpel
Excused: Gokhale, Goldman, Williams

3. Approval of minutes of June 10, 2008, meeting.

Speakers: None

Motion to approve the minutes of June 10, 2008 (Knee / Chan).
Ayes: Craven, Knee, Cauthen, Washburn, Knoebber, Pilpel, Chu, Chan
Absent: Pilpel
Excused: Gokhale, Goldman, Williams

4. Special recognition to Doug Comstock for his community service as a contributing member of the Sunshine Ordinance Task Force.

Chair Chu presented Mr. Comstock with a certificate of recognition that was signed by the President Peskin of the Board of Supervisors, along with a commemorative plaque. She expressed appreciation for his work and dedication to the Task Force.

Member Craven said that it has been a real honor serving with Mr. Comstock; that his ability to put aside his personal preference for open government has helped the Task Force to make some good decisions.

Member Cauthen said that Mr. Comstock was a pleasure to work with.

Member Chan said that he will miss Mr. Comstock including the water, chips, and other treats that he provided to the Task Force.

Member Knee said that Mr. Comstock made innumerable contributions to open government and hopes that he will not be a stranger.

Member Sheppard said that he appreciates Mr. Comstock for his leadership, welcoming and informative attitude; that he was a privilege to work with.

Member Washburn said that she was deeply appreciative for Mr. Comstock's effort to get the ordinance passed, and that she hopes to work with him to get the proposed amendments on next year's ballot.

Mr. Comstock welcomed James Knoebber to the Task Force. He said that since his appointment in 2002, it has been a pleasure serving on the Task Force in reaching Order of Determinations and attempting to enforce them. He said that the Task Force is the people's court and an avenue for activists to monitor government. He noted that he was the first Task Force member not to be reappointed and until recently believed that the Board of Supervisors would not interfere. However, President Peskin had expressed desire in getting new blood on the Task Force. Mr. Comstock expressed hope that the Task Force would not be intimidated by his removal; that members "stick to their guns and enforce the Ordinance." Sunshine is not as opened government as it should, he said. He urged members to push the proposed Ordinance amendments through and keep meaningful minutes so people can see why decisions were made. He further urged members to support the chair because he said that it is a tough job. Lastly, Mr. Comstock said that history would reflect that San Francisco government is better because of the Task Force.

Public Comment: Allen Grossman expressed his appreciation of Mr. Comstock and added that as a complainant who has come before the Task Force several times he could not ask for a fairer chairman.

Member Pilpel said that he respects and appreciates the work that Mr. Comstock brought to the Task Force.

5. Continued discussion of City Attorney's interpretation of, implementation of, and advice and counsel to clients on compliance with Sunshine Ordinance sections 67.21(i) and 67.24(b)(1)(iii). Discussion of City Attorney's policy on whether such advice should be provided in written and/or oral communications.

DCA Llorente, said that he is representing his office on the matter. He said the City Attorney's Office does not have an expressed or implied policy urging departments to not have written communications. He referred to the February 26, 2007, letter by DCA Paul Zarefsky, and said that the letter does not imply that records shouldn't be disclosed, but on the contrary speaks to records that should be disclosed. He said that some opinions are given orally and some opinions are written. He said that written opinions are available on the department's website.

Member Craven asked DCA Llorente if there is a written or unwritten policy in the City Attorney's Office to provide oral advice with respect to open government laws in lieu of written advice because of the provisions in the Ordinance that opts for disclosure?

In response, Mr. Llorente said there is no policy in the office that says the CA would give oral advice because there are provision or requirements under the Ordinance.

If so, said Member Craven, why is disclosure limited to written advice in the second line of the last paragraph of Section 6 in the Good Government Guide?

DCA Llorente said he does not know how a person would disclose oral advice, which is not in written form and can only be memorialized if put on tape.

What if, said Member Craven, the Task Force asked for the oral advice that the CA had provided to a department representative?

DCA Llorente said he would get back to the Task Force.

Member Craven noted that the Good Government Guide mentioned "writing" twice while the ordinance uses the word "communication."

Member Craven also wanted to know if it was the City Attorney's policy to redact documents discussing an agency's reason for not disclosing information. The reason was because several complainants had said the City Attorney preferred to give advice on open government laws orally because of the requirement to disclose the advice.

DCA Llorente said he would provide the Task Force with an answer.

Member Cauthen said she always makes public record requests and it was always for written information. She wanted to know if a public record is limited to written records and if oral communication is construed as a public record how is it going to be proved that the communication was provided

Member Craven said oral information is public information under Sunshine.67.20 (b).

Public Comment: Allen Grossman requested more time to comment. Chair Chu said that he would only have three minutes. Mr. Grossman read from a letter that he e-mailed earlier and identified three issues:

1. Does the City Charter triumph the Sunshine Ordinance?,
2. What is the CA's role under 67.21 (i)?, and
3. Should the CA's advice always be written?

He said until these issues are resolved he does not see any change in the MO of the City Attorney's Office. He said that there should be a level playing field otherwise the requestor is overwhelmed and can not bring to bear. He said he understands DCA Zarefsky's letter to mean that the City Attorney can help departments in any way under the Ordinance except to appear before the Task Force as an attorney for the official or department.

Continued to the July 22, meeting. Without objection.

6

Media Services and SFGTV to describe their plans to implement the Digital Recording measure.

Administrator Darby informed Chair Chu that neither Rohan Lane (Media Services) or Jack Chin (SFGTV) would be able to attend the meeting however, they have submitted the following report:

Mr. Lane: Reported that no funding was allocated to Media Services for their component of the project; that they are waiting to see the results of the budget hearings before they can commit to this service.

Mr. Chin: Reported that they have the funding the purchase the hardware and software, however the labor portion was cut out of their budget. Without staff to support the service they will have to wait until the end of the budget hearings to see if the labor will be added back to the department.

Public Comment: Ms Lurilla Harris asked why the handout was not in the packet. Chair Chu said that it was received after the packet had been created.

Member Pilpel asked DCA Llorente if the Ordinance was in effect with or without a budget, and would it require departments to find some way to comply with it.

Without objection

DCA Llorente said that he would have to research the answer and report back to the Task Force.

Chair Chu asked the Administrator to include a status report on this matter in the monthly Administrator's Report.

Administrator Darby informed the Chair Chu that Mr. Lane and Mr. Chin said that they would be available to provide a report at the Task Force meeting in July.

Item to read: Status of implementation of the digital recording measure from technical and legal perspective.

Without objection

Public Comment: Ms Lurilla Harris said the emails from Mr. Lane and Mr. Chin should be mentioned as attachments and included in the agenda. She also pointed out a spelling mistake on line one, page two of the agenda.

Continued to the July 22, meeting. Without objection.

7. Report from the Complaint Committee meeting of June 10, 2008.

Member Cauthen made the report. She said that there was no meeting because the parties wanted to work together to resolve the matter.

Public Comment: None

8. Report: Compliance and Amendments Committee: meeting of June 4 (special) and June 11, 2008.

Member Knee made the report.

Public Comment: None

9. Continued discussion re: Amendments to SOTF By Laws.

Member Pilpel asked the Administrator if he gave 10 days notice pursuant to Article XIII of the By Laws. Mr. Darby said that the notice has been posted on the main page of the SOTF website for the past 30 days.

Member Chan asked if language was to be included to call the Chair last on votes. DCA Llorente responded that there was no such language proposed and that the Chair could make the decision on a case by case basis.

Member Cauthen suggested that the vote be rotated per item.

Member Knee suggested that rather than rotating the vote a member could pass on a vote.

Chair Chu said that she prefers not to complicate the matter but to keep the role call for votes as is.

Public Comment: None

Motion to approve the amended SOTF By Laws (Pilpel / Washburn).
Ayes: Craven, Knee, Cauthen, Washburn, Knoebber, Pilpel, Chu, Chan
Excused: Gokhale, Goldman, Williams

10. Administrator's Report.

The Administrator made the report. Mr. Rustom reported two potential complaints filed by Peter Warfield have yet to be processed. He said that Mr. Warfield filed two complaint letters, but refused to sign off on the complaint forms that were completed and sent to Mr. Warfield to clarify his complaint. Mr. Darby asked the Task Force rather or not they wanted to process the two complaints without the form.

There were numerous discussions held by Members of the Task Force. DCA Llorente said that the form was created to bring order and a uniformed summary of the complaint. Members Pilpel and Washburn suggested accepting the letter without the form. Members Cauthen, Craven, Chu, Knee, and Knoebber suggested that the procedures be followed.

Public Comment: Ms. Lurilla Harris said that Peter Warfield and James Chaffee are always specific in their letters. She said that they don't need another layer of bureaucracy.

Chair Chu instructed the Administrator to follow Task Force procedures; that Mr. Warfield's complaints not to be processed until he signs off on the completed forms. Without objection.

Member Pilpel said it would be helpful if the Complaint Log also included the nature of a complaint.

He also wanted the Administrator to contact the State Attorney's Office to inquire about the status of the #07009 complaint.

11. 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: Peter Witt, described alleged violations by the Taxi Commission during their meetings and urged the Task Force to taken action to prevent the continued violations.

Allen Grossman read some excerpts from communications between a DCA Francisca Gressner and Sue Blackman of the Public Library regarding Peter Warfield's complaint against the Library.

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

Public Comment: None

Chair Chu said that she would have the final committee assignments by the next Task Force meeting. She welcomed new member James Knoebber.

Due to a possibly long meeting next month she asked members if they wanted to have a special meeting on July 8, 2008 to only hear complaints. Without objection.

DCA Llorente, urged splitting the complaints. Without objection

Member Craven suggested hearing the complaints first and then work on the discussion items.

Chair Chu gave a report of the status of the amendments and said that they will not be on the November ballot. She said that an item would be agendaized for next month to discuss next steps.

Administrator asked the Chair for the exact language to include for the item.

Member Craven said that the language of the agenda will be: "Discussion and possible action on the status of the amendments and next steps the Task Force will take with respect to the amendments."

Member Sheppard said that his term ends in August 2008 and that he had submitted his resignation to Mayor Newsom, and urged him to provide another qualified person to the Task Force. He said it has been a privilege serving with the Task Force. He also commended Mr. Darby for his work as Administrator of the Task Force.

Adjournment

The meeting was adjourned at 6:05 p.m.

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