

SUNSHINE REFORM TASK FORCE MEETING MINUTES

**Thursday, February 15, 2007
6:00pm – 8:30pm**

City Hall, W-118

Present: Ed Rast, Strong Neighborhoods Initiative PAC; Ken Podgorsek, United Neighborhoods of SCC; Virginia Holtz, Willow Glen Neighborhood Assoc.; Joan Rivas-Cosby, Five Wounds/Brookwood Terrace Neighborhood Advisory Committee; Dan Pulcrano, Silicon Valley Leadership Group; Susan Goldberg, San Jose Mercury News; Bob Brownstein, South Bay Labor Council; Brenda Otey, At Large-Representative; Mary Ann Ruiz, Parks and Recreation Commission; Karl Hoffower, Citizens Commission on Human Rights; Dave Zenker, Falls Creek Neighborhood Association.

Absent: Bobbie Fischler, League of Women Voters; Nanci Williams, San José/Silicon Valley Chamber of Commerce; Margie Matthews, Former Councilmember; Edward Davis, Orrick Law Firm (Legal Counsel)

Staff: Lee Price, City Clerk; Dottie Disher, Office of the City Clerk; Lisa Herrick, Senior Deputy City Attorney; Dan McFadden, Interim Deputy City Manager; Eva Terrazas, Office of the City Manager/Redevelopment Agency; Sheila Tucker, Office of the City Manager; Tom Manheim, Office of the City Manager.

I. Approval of January 18, 2007 Meeting Minutes

Upon a motion by Virginia Holtz, seconded by Ken Podgorsek, the January 18, 2007 minutes were approved with two abstentions, Task Force members Brenda Otey and Judy Nadler (absent 1/18/07).

Approval of February 1, 2007 Meeting Minutes

Upon a motion by Virginia Holtz, seconded by Ken Podgorsek, the February 1, 2007 minutes were approved with one abstention, Task Force member Judy Nadler (absent 2/1/07).

II. Comments from Chair

Chair Rast noted the success of the three committees - Closed Session, Public Meetings, and Public Information, with each group returning to the Task Force with a report and recommendations.

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III. Review of Meeting Material

Staff provided an overview of the documents for the meeting.

Staff also reported that a 90 minute presentation had been made to Senior staff on the draft provisions for public meetings, closed session and public information and that their questions and concerns would be reflected in the discussion this evening.

IV. Wrap-Up Discussion on Public Meetings - Review of Committee Recommendations

- A. Task Force member Ken Podgorsek reviewed the Committee's recommendations noting a major change was to separate ancillary bodies and non-government bodies into two categories.

The Task Force unanimously approved the proposed definition of Policy Body amended to clarify Section F: Any body that allocates, or advises a policy body or Department Head regarding the allocation of, more than \$200,000 in City funds is intended to apply to grants to non-governmental bodies as opposed to general "allocations," and further clarified that the \$200,000 threshold was intended to apply to the aggregated amount on money being granted by the policy body rather than the amount of any individual grant."

Action Item: Staff will refine the definition to meet intent as described above.

- B. The Task force unanimously approved the proposed definition of an Ancillary Body.

Upon a motion by Ken Podgorsek, seconded by Bob Brownstein, the Task Force approved the Committee's proposed definitions of non-government and non-city governmental bodies, and the proposed requirements for these bodies, amended to omit "significant" from #6: Any decision that may place the City or the public at risk of *significant* financial loss, property damage or personal injury (Pulcrano dissenting).

Task Force member Pulcrano requested adding an additional criteria to the definition such that a non-governmental body would be defined as, "an entity that receives more than \$200,000 in City funds per year *and such funds represent more than 20% of such entity's annual budget.*

Public Comment - Patricia Gardner, Executive Director of the Council of Non-profits noted nonprofits already have a lot of rules that make it difficult to work with the City and requested that the City not make it more difficult with excessive Sunshine requirements. In addition, Ms. Gardner pleaded with the City to work closer with the non-profits in their process to expend grant funds by providing more public notice on the

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agenda and subsequent staff report.

Action Item: Staff will follow-up on Patricia Gardner's request in writing.

Public Comment: Dean Munro noted that the requirements for non-profits were not too burdensome and suggested three ways to understand and track the work of a non-profit: (1) require their budget to be a public document; (2) require their monthly financials to be a public document; (3) require their meeting to be open to the public. The internet has made it easy to access information.

- C. Ken Podgorsek provided an overview of the Public Meeting Committee's recommendations related to the requirements of Policy Bodies and Ancillary Bodies.

Upon a motion by Ken Podgorsek, seconded by Mary Ann Ruiz, the Task Force unanimously approved the Committee's proposed requirements for policy bodies and ancillary bodies with the following amendments to the requirements for ancillary bodies.

1. Require all staff reports to be posted 4 calendar days in advance of a meeting of an ancillary body.
2. Require all staff reports and other supporting documents related to the items on the agenda for an expenditure of \$1 million or more to be posted on the City's website at least 4 calendar days before a meeting of an ancillary body.
3. Require any supplemental reports be posted 2 calendar days in advance of any meeting of an ancillary body.
4. Require any Council memos to be posted 2 business days in advance of any meeting of an ancillary body.

Action Item: Staff will revise the Public Meeting provisions and prepare the draft Ordinance language for discussion and final approval.

V. Overview of Public Information Provisions

Tom Manheim provided an overview of the documents prepared for the Task Force. Virginia Holtz provided an overview of the Public Information Committee's recommendations. The following decisions were made:

- A. **Definition of Public Information.** Upon a motion by Virginia Holtz, seconded by Bob Brownstein, the Task Force unanimously approved the definition of Public Information.

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- B. ***Release of Oral Information.*** Upon a motion by Virginia Holtz, seconded by Judy Nadler the Task Force unanimously approved the Committee's recommendations for release of oral information.
- C. ***Public Review File.*** Upon a motion by Virginia Holtz, seconded by Judy Nadler the Task force unanimously approved the Committee's recommendations for maintaining a public review file.
- D. ***Internet Access/World Wide Web Minimum Standards.*** The Task Force unanimously agreed to defer discussion on this section until the Task Force considers the Technology section.
- E. ***Lobbyist on Behalf of City (Item F of Committee Recommendations).*** Upon a motion by Virginia Holtz, seconded by Ken Podgorsek, the Task Force unanimously agreed to accept the Committee's recommendations related to lobbyist on behalf of the City.
- F. Dave Zenker led the discussion on ***Calendaring of Certain Officials (Item E. of Committee recommendations)***. The Task Force discussed the frequency with which calendars should be published and tentatively agreed that calendars should be updated weekly, on Monday by 12 noon, for the previous week.

The Task Force discussed the issue of calendaring unscheduled meetings. There was a general consensus to capture unscheduled meetings on calendars of certain officials. Key discussions on the intent and requirements for capturing such meetings included:

1. It is not practical to expect officials to record all impromptu meetings.
2. The intent is to capture discussions with lobbyists.
3. The intent is to capture impromptu meetings that relate to major items to be considered by Council.
4. Is the intent to capture substantial discussions or discussions on substantial issue, or both?
5. Random contact with constituents should be encouraged not discouraged.
6. It must be incumbent upon the city official to determine what unscheduled meetings result in "substantial discussion" and should be reported.

The Task Force will continue its discussion on the remaining recommendations on content (including requirements for unscheduled meetings), exemptions, and applicability at the Task Force's February 24, 2007 meeting.

Public Comment: Dean Munro, Mayor's Liaison to the Task Force noted all the weekend meetings are generally pre-scheduled so posting by 12 noon on Monday would not be difficult. Mr. Munro further suggested that before City Council Meetings,

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Councilmembers should note in their calendar any conversation with a lobbyist. In addition, it was suggested that the Task Force consider establishing a length of time that would trigger the requirement, and if the conversation runs over that time, then it should be recorded.

G. Additional Public Outreach

Discussion deferred to the Task Force's February 24, 2007 meeting.

VI. Update February 6, 2007 Council Meeting

The Item was deferred. Staff will provide the link to the meeting synopsis.

VII. Upcoming Agenda and Work Plan

A. The morning session of the February 24th meeting will focus on wrap up discussions on closed session, public information and public meetings. The afternoon session will be dedicated to a panel discussion on police records.

B. In order to stay on schedule to provide the Task Force's recommendations on Phase 1 to the Rules and Open Government Committee on March 14th, 2007 the Task Force's recommendations must be submitted on March 2, 2007.

C. The Task Force will consider final approval of the proposed requirements for public meetings, closed session, and public information at its meeting on March 1, 2007. The agenda will also include a discussion on Bob Brownstein's proposal for large public subsidies and, as time allows, the budget process.

Action Item: Staff to invite representatives from the Redevelopment Agency and Office of Economic Development to participate in the discussion on "major public subsidies" at the March 1, 2007 meeting.

D. Looking forward, Task force members Bob Brownstein and Ken Podgorsek volunteered to work with staff on recommendations for enforcement.

VIII. Public Comment

No additional public comment.