

## **SUNSHINE REFORM TASK FORCE MEETING MINUTES**

**Thursday, November 2, 2006  
6:00pm – 8:30pm**

**City Hall W-118**

**Present:** Ed Rast, Strong Neighborhoods Initiative PAC; Ken Podgorsek, United Neighborhoods of SCC, Bobbie Fischler, League of Women Voters; Virginia Holtz, Willow Glen Neighborhood Assoc.; Joan Rivas-Cosby, Five Wounds/Brookwood Terrace Neighborhood Advisory Committee; Margie Matthews, Former Councilmember; Karl Hoffower, Citizens Commission on Human Rights; Brenda Otey, At-Large Representative; Dan Pulcrano, Silicon Valley Leadership Group; Phaedra Ellis-Lamkins, South Bay Labor Council; Susan Goldberg, San Jose Mercury News; Dave Zenker, Falls Creek Neighborhood Association; Nanci Williams, San Jose/Silicon Valley Chamber of Commerce; Edward Davis, Orrick Law Firm (Legal Counsel).

**Absent:** Judy Nadler, Markkula Center for Applied Ethics; David Roberson, Housing Commission.

**Staff:** Lee Price, City Clerk; Lisa Herrick, Senior Deputy City Attorney; Rosa Tsongtaarii, 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 11/02/06 Meeting Minutes

Upon a motion made by Joan Rivas-Cosby seconded by Ken Podgorsek, the September 21, 2006 minutes were approved with one abstention, Task Force member Nanci Williams (absent 10/19/06).

**II.** Comments from Chair

Chair Rast recommended the Task Force continue the discussion on “public meetings” beginning with Document A-2 and complete the discussion on Ancillary Body, Section C. Chairman Rast noted suggested language was submitted by Task Force member Susan Goldberg. It was further suggested that the Task Force continue with Document A-2 and complete their discussion on “City staff” and “Policy Body” definitions.

**III.** Review of Meeting Material

Staff provided an overview of the packets and documents distributed for the meeting and/or available on-line or by request. Staff noted sufficient copies of all new material would be distributed at Task Force meetings and limited copies of materials previously distributed would be available for the public.

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#### IV. Discussion on *Public Meetings* Category

##### A. The Task Force continued discussion on the definition of “ancillary bodies”, Section C.

Key comments include the following

1. Change “owns, operates or manages any property in which the City has an ownership interest, **and** performs a governmental function or service on the property;” to “owns, operates or manages any property in which the City has an ownership interest, **or** performs a governmental function or service on the property.”
2. Include entities that are created by the City, have voting members of the Policy Body on its Board, or the City is involved in structuring or selecting the composition of the governing Board.
3. The provision “any entity that manages City property or receives money” is too broad.
4. The provision “performs a governmental function or service on the property” would include everything and is too far reaching.
5. The language proposed by Task Force member Susan Goldberg, “a government function is any function that the City is required or authorized by law to provide, perform or control, including the ownership and management of real property and facilities” is exceptionally broad, and would cover almost everything. For most services, “authorized by law to provide” for a charter city is discretionary.
6. Include entities that have operating and managing agreements with the City, not those entities that lease property from the City to use for their own purposes.
7. Consider a threshold amount for entities with operating and management agreement.
8. Include non-governmental entities that have been delegated a responsibility that would otherwise be provided by the City (or a Policy Body), and subject to the Brown Act.
9. Do not include entities that provide recommendations to a Committee, Board or Commission and hold scheduled meetings that are subject to the Brown Act.
10. If a nongovernmental group meets on an agenda item that does not relate to the services it provides to the City, that meeting should not be required to be public.
11. Meetings of non-City groups should be subject to open meeting requirements if the same item, agenda item for Council action, would be subject to an open meeting before City Council.
12. If advisory to the policy body it should be an ancillary body.
13. Include non-profit and for-profit entities.
14. There is limited interest in including non-policy bodies for the purpose of managing and/or overseeing their funds and programs.
15. There is considerable cross over with the definition of Ancillary Body and Policy Body, particularly Section E.

Upon the motion of Phaedra Ellis-Lamkins, seconded by Susan Goldberg, the Task Force unanimously agreed to refer the definition of Ancillary Body, Section C to a Committee of

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3 including the City Attorney's Office, City Manager's Office and the Task Force's Legal Counsel, Ed Davis, to rewrite the definition based on the intent described above. The motion was amended to include in the rewrite, the definition of Policy Body.

- B. The Task Force discussed the definition of City staff. Staff recommended the following revised definition. "City staff" means all employees of Council (Charter) appointees and Department Heads. Staff noted it is clearer to define a term by stating what it includes rather than what it does not include.

Upon the motion of Phaedra Ellis Lamkins, seconded by Dan Pulcrano, the Task Force adopted the staff recommended revisions to the definition of "City staff." The motion was amended to add definitions of council appointees and department heads to the Definitions Section.

#### V. November 30, 2006 Council Study Session

Staff reported the purpose of the November 30, 2006 Council Study Session is to: 1) update the City Council on the progress and status of the work of the Sunshine Reform Task Force, and 2) discuss the concept, approach, and proposed elements of a draft Sunshine Ordinance and to seek direction from the City Council on the outcomes to guide preparation of the draft ordinance. The draft agenda is a work in progress and currently is envisioned to include a review of the progress to date, a report from the Task Force Chair on the status of the work plan and development of the draft ordinance, a staff discussion on implementation, remarks from the City Manager and City Attorney, and a substantial questions and answer period.

#### VI. Upcoming Agenda and Work Plan

- A. The agenda for the November 16, 2006 meeting will include:
  - 1. Report on the implementation of the 22 Council Reform Referrals.
  - 2. Continuation of the discussion on public meetings.
- B. The agenda for the November 18, 2006 meeting will include:
  - 1. Discussion and questions on the implementation of the twenty-two Council Reform Referrals.
  - 2. Continuation of the discussion on public meetings.
  - 3. Begin discussion on Closed Session after lunch. The discussion will open with a presentation from the City Attorney on the staff's analysis and key issues, and a presentation from the Task Force's Legal Counsel on the Practices of other Municipalities.
  - 4. Determine scheduling of December 9<sup>th</sup> all-day Saturday meeting.

#### VII. Consider Scheduling Additional Tentative All-Day Saturday Meetings

The Task Force agreed to *tentatively* schedule a meeting room for a potential all-day Saturday meeting on December 9, 2006. The Task Force will make a final determination

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on the scheduling of the December 9<sup>th</sup> all-day session at the close of the November 18, 2006 all-day meeting.

**VIII. Public Comment**

None

The meeting adjourned at 8:38 p.m.