

SUNSHINE REFORM TASK FORCE MEETING MINUTES

**Thursday, December 6, 2007
6:00pm – 8:30pm**

City Hall, Wing Rooms 118-119

Present: Ed Rast, Strong Neighborhoods Initiative PAC; Dan Pulcrano, Silicon Valley Leadership Group; Ken Podgorsek, United Neighborhoods of SCC; Joan Rivas-Cosby, Five Wounds/Brookwood Terrace Neighborhood Advisory Committee; Bert Robinson, San José Mercury News; Edward Davis, Orrick Law Firm (Legal Counsel); Brenda Otey, At Large-Representative; Virginia Holtz, Willow Glen Neighborhood Assoc.; Mary Ann Ruiz, Parks and Recreation Commission; Trixie Johnson, Former Councilmember; Judy Nadler, Markkula Center for Applied Ethics; Bob Brownstein, South Bay Labor Council; Bobbie Fishler, League of Women Voters; Dave Zenker, Falls Creek Neighborhood Association

Absent: Nanci Williams, San José/Silicon Valley Chamber of Commerce

Staff: Lee Price, City Clerk; Lisa Herrick, Senior Deputy City Attorney; Tom Manheim, Office of the City Manager; Eva Terrazas, Office of the City Manager/Redevelopment Agency. Eileen Beaudry, Office of the City Manager; Dottie Disher, City Clerk;

I. Approval of the November 15, 2007 Meeting Minutes

Upon a motion by Bert Robinson, seconded by Ed Rast, the Task Force approved the November 15, 2007 meeting minutes with one abstention due to absence: Dave Zenker.

II. Comments from the Chair

Chair Ed Rast noted that this was the last meeting for Judy Nadler.

III. Review of Meeting Material

Eva Terrazas reviewed the documents in the meeting packet and introduced one document that was left out of the meeting packet: "City Attorney's Response to Referral dated 10-1-07 from Public Records Subcommittee." She noted that the document has been posted on the Sunshine website for over a month.

Upon a motion by Ken Podgorsek, seconded by Virginia Holtz, the Task Force approved to accept the document as part of the 12/6 meeting packet.

Eva Terrazas also mentioned emails from a member of the public, Kimo Crossman, which are available in hardcopy for Task Force review.

IV. Update on the Rules and Open Government Committee's Review of Remaining SRTF Phase I Recommendations

Sunshine Reform Task Force

Meeting Minutes

December 6, 2007

Page 2

To be handled with the Chair and Vice-Chair outside of the meeting as part of housekeeping.

V. Discuss and Consider Approval of Final Subcommittee Recommendations

A. Ethics and Conduct Subcommittee Recommendations

Judy Nadler asked the Task Force if they had any questions regarding the Final Ethics and Conduct Subcommittee Recommendations, dated 11/26/07.

Brenda Otey recommended that the following wording replace section 7.2 A: “In order to ensure equal, full and fair access to all substantive information, a member of a policy body must disclose any relevant, substantive information he or she has received from any source outside the public decision making process when that matter is under consideration by the policy body.”

Joan Rivas-Cosby recommended the use of consistent language in 7.4 A to match 7.4 C, i.e., using the word “appropriate” instead of “all” in reference to City materials.

The Task Force discussed section 7.3 C, specifically “paid or unpaid” campaign workers. The discussion focused on whether the new language would prevent reasonable access to elected officials. It was noted that the proposed language was designed to restrict only those compensated lobbyists who previously held a position of responsibility in a campaign from lobbying that candidate.

Upon a motion by Judy Nadler, seconded by Trixie Johnson, the Task Force unanimously approved the subcommittee recommendations with the two changes described above.

B. Technology Subcommittee Recommendations

Dan Pulcrano noted that because of the nature of the Technology Subcommittee recommendations, they would not be presented to the City Council as proposed ordinance language, and that the draft document has been re-written to state “recommends...” instead of “must.” He reviewed the document noting some minor language changes, numbering corrections, and the following changes:

6.1.3 Ticketing Requests for Public Records now includes the Planning and the Police departments;

6.1.5 A new Public Safety and Law Enforcement section recommends that the police records management system allow for redaction while maintaining appropriate privacy;

6.2.1 (A) The revised language addresses enhancing the “searchability” of the City’s web sites; and

Sunshine Reform Task Force

Meeting Minutes

December 6, 2007

Page 3

6.2.2 (C) The new language recommends making it easier for the public to access bids and proposal information.

Dan Pulcrano also requested that the Task Force approve in concept the following new sections to the document and direct the City Attorney's office to draft new language incorporating the new sections:

6.4.1.020 Includes the following email retention schedules: a. For elected officials and for all Form 700 filers who work for elected officials, retain all emails for ten years; b. For other non-elected Form 700 filers, retain all emails for five years.

6.4.3 Addresses privacy issues regarding information on the City's website;

6.2.3 (B) Recommends consistency among the contact forms used on the City's website; and recommends a new "Contact Us" form that could be used to email all members of the City Council or any City Board, Commission or Committee. The public could also subscribe to the form-based email to receive all subscriber comments on a specific topic of interest.

The Task Force discussed using the ticketing system citywide; changing "implement" to "use existing" in Section 6.1.4 A; changing "usability" to "usage" in 6.2. B; the purpose of the proposed retention schedule, and a consistent retention schedule for all Form 700 filers and staff.

Tom Manheim noted that a new Public Records Manager will be starting in January 2008 and will be reviewing the City's document and email retention schedules.

Captain Gary Kirby of the Police Department noted the expense of technology for records management and objected to the release of statistical reports as noted in item 11 on page 5. Dan Pulcrano noted that language for this section was taken from the IPA's existing retention schedule.

The Technology Subcommittee will return with final recommendations at the Task Force meeting on February 7th, 2008.

C. Public Records Subcommittee Recommendations

Bert Robinson suggested that the Task Force review items in an order responsive to those present to speak, beginning with Section 5.1.1: Law Enforcement Information. Bert explained that the primary change to this section was the change from an annual to a quarterly review of police reports on traffic stops and use of force.

Bob Brownstein supported requiring the Police Department to produce statistical reports but expressed concern that designating the specific report contents in a City ordinance would make it harder to change future reports.

Sunshine Reform Task Force

Meeting Minutes

December 6, 2007

Page 4

Captain Gary Kirby of the Police Department stated that the reporting requirements were too specific given rapidly changing information, community needs and technology. Barbara Attard, the Independent Police Auditor (IPA), agreed and requested more general language defining IPA reporting requirements.

Ken Podgorsek suggested changing the language to “including but not limited to;” and adding a section C to Section 5.1.1.070 requiring an annual Council review of the reports.

Dave Zenker expressed concern with the specificity of the report content and suggested using standard law enforcement metrics. Brenda Otey noted that the new requirements addressed community concerns expressed to the subcommittee. Captain Kirby explained that the Police Department publishes standard law enforcement statistics on its website that are required annually by the State and the Federal Bureau of Investigation.

A motion was made by Bob Brownstein and seconded by Trixie Johnson. After clarifying and amending the motion, the Task Force unanimously adopted the subcommittee’s recommendation, as written, with two additions:

- 1) In section 5.1.1.070 A and B, add “but not limited to” after “including;” and,**
- 2) Add an annual review, to be implemented immediately, to consider the type and frequency of police reports that should be produced. The first annual review would be by the City Council. Six months after the Open Government Commission (OGC) is formed, responsibility for the annual review would shift to the OGC.**

Fees for Duplication

Bert Robinson directed the Task Force to Section 5.2.4: “Fees for Duplication,” explaining that the recommended fee for the first 50 pages would be .10 and after that the fee would be at the Council adopted cost-recovery fee, which is currently .20 per page.

Upon a motion by Virginia Holtz, seconded by Bob Brownstein, the Task Force unanimously accepted the subcommittee recommendation.

VI. Open Forum

Public Testimony:

Bob Brownstein requested an opportunity to discuss the District Attorney’s report on Police Records.

Blair Beekman asked how Task Force motions can be changed. Bob Brownstein and Ed Rast explained that any motions made can be changed at future Task Force meetings.

The Task Force adjourned the meeting at 8:35 p.m.