

MINUTES OF THE OPEN GOVERNMENT COMMISSION MEETING
MONDAY- -MAY 7, 2012- -7:00 P.M.

The meeting was convened at 7:07 p.m.

ROLL CALL – Present: Commissioners Jensen, Oddie, Peterson, Spanier,
and Wong – 5.

[Note: Commissioner Jensen arrived at 7:15 p.m.]

Absent: None.

ORAL COMMUNICATIONS, NON-AGENDA

None.

AGENDA ITEMS

3-A. Approve Commission By-Laws.

The City Clerk gave a brief presentation.

Commissioner Spanier stated that she envisions the Commission as a body that would respond to complaints; the purpose of the Commission would be to develop an infrastructure that would include goals; that she would like to understand the overwhelming thrust of the Commission.

The City Clerk stated the Commission's purpose was taken from the Sunshine Ordinance; the Sunshine Ordinance established the role of the Commission.

Commissioner Spanier stated the Commission has quite a few duties and responsibilities; regular meetings will be held, goals will be set, and the Commission will be somewhat involved in a lot of other committee work.

The City Clerk stated the Commission is required to meet semi-annually and as complaints are filed; the Commission would tally up complaints and report back to Council; the Commission would review how the ordinance is working.

In response to Commissioner Oddie's inquiry regarding review of notices, the City Attorney stated the Commission could look back in six months to ensure that staff is meeting the Sunshine Ordinance requirements; review would not be needed after every meeting.

The City Clerk stated a particular section of the Sunshine Ordinance addresses language and timing of particular notices; the Commission would review the boiler plate format.

Commissioner Peterson inquired whether the Commission would need to review a complaint the following Monday after a complaint has been brought to the Commission's attention, to which the City Clerk responded in the negative; stated the matter would need to be reviewed within thirty days.

Commissioner Peterson suggested providing some type of notice that the Open Government Commission exists.

The City Attorney stated that the Brown Act requires the Commission to discuss each item as agendaized; staff is requesting the Commission to adopt the By-laws; after adoption of the By-laws, a Chair needs to be assigned; then, the Commission would be able to have a complete discussion on complaint procedures.

In response to Commissioner Peterson's inquiry, the City Attorney stated special meetings can be scheduled; regular meetings are part of the ordinance and would occur twice a year; if additional meetings are necessary there is a provision for special meetings.

Commissioner Jensen inquired whether Commissioner Peterson is concerned about meetings not being scheduled.

Commissioner Peterson responded his intent is to make sure it is easy for people to be involved with the government.

Commissioner Jensen inquired whether scheduling regular, semi-annual meetings should be noted in the By-laws; suggested that the regular meetings be held in March and September; stated special meetings would be scheduled whenever a complaint is filed.

Commissioner Jensen moved approval of having regular meetings scheduled in March and September. [Note: September was changed to October due to the Labor Day holiday.]

Commissioner Wong seconded the motion, which carried by unanimous voice vote – 5.

Commissioner Jensen moved approval of the Commission By-laws.

Commissioner Wong seconded the motion, which carried by unanimous voice vote – 5.

Commissioner Spanier stated the Commission seems to have a passive and active role.

Commissioner Peterson stated that he has a concern with the regular meeting schedule; the Commission is scheduled for two meetings unless there is an alleged complaint.

Commissioner Spanier stated that she understood that the Commission would be meeting once per month.

The City Clerk stated the Commission would meet the first Monday of the month semi-annually and as needed.

In response to Commissioner Oddie's inquiry, the City Clerk stated the public comment period is limited to three minutes.

3-B. Select Chair and Vice Chair.

Commissioner Wong moved approval of nominating Commissioner Oddie as Chair.

Commissioner Jensen seconded the motion, which carried by unanimous voice vote – 5.

Commissioner Peterson moved approval of nominating Commissioner Jensen as Vice Chair.

Commissioner Wong seconded the motion, which carried by unanimous voice vote – 5.

3-C. Review the Form and Process for Filing Sunshine Ordinance Complaints.

The City Clerk gave a brief presentation.

The City Attorney noted that she has provided a substitute page which is the last page just before the Frequently Asked Questions section; stated the last item regarding individual complaints outlined in Item 3 has been changed to: "a person who makes more than two complaints in a twelve-month period determined by the Commission to be unfounded is prohibited from making a complaint for the next five years;" stated everything in the packet is part of the Ordinance.

Chair Oddie inquired whether the Commission has the authority to change the process.

The City Attorney responded the Commission cannot change what is in the ordinance but can be more specific.

Commissioner Peterson inquired whether Item G-3 is part of the Ordinance, to which the City Attorney responded in the affirmative.

Vice Chair Jenson stated complaints would be filed with the City Clerk; inquired whether the City Clerk would be responsible to meet the thirty-day deadline.

The City Clerk responded that she would count out thirty days upon receipt of a complaint to see whether the complaint could be heard on the first Monday with proper seven day noticing; if not, a special meeting could be scheduled.

Commissioner Peterson stated a website [email address] would be set up in the future for filing a complaint directly with Chair Oddie also.

Vice Chair Jensen inquired whether someone might file a complaint on the website and not with the City Clerk's office.

The City Clerk responded a generic email address is being set up; stated the email would go to the Chair and staff; complaints can also be filed via FAX or walk-ins; she would be happy to accept complaints in any format; the City Manager's office is in the process of setting up Boards and Commissions emails; the matter could be reviewed later.

Chair Oddie stated that he thinks a complaint should be emailed to everyone [on the Commission].

The City Clerk stated that she could inform all Commissioners about complaints received and would contact the Commissioners to scheduling a meeting.

Vice Chair Jensen inquired about the Commission's responsibility to address Sunshine Ordinance complaints with a quick turnaround time.

The City Clerk noted a complaint could be filed before a City Council meeting even occurs because Council agendas are put out twelve days before a Council meeting is held; that she would calculate the thirty days and try to have the complaint addressed on the first Monday.

Chair Oddie stated having all Commissioners receive a copy of the complaint would work better; other Commissioners might disagree that the Chair thinks that an issue is not worth holding a meeting.

Commissioner Peterson stated what one person might consider important, another might not.

The City Attorney stated complaints cannot be discussed unless at a public meeting; complaints would be taken seriously.

In response to Commissioner Spanier, the City Attorney stated once a complaint is received, the City Clerk will set a meeting within the thirty day timeframe; there is no need for the Commissioners to discuss the matter prior to the meeting.

Commissioner Peterson inquired whether it would be the sole determination of the Commission to determine whether the complaint is a violation, to which the City Clerk responded in the affirmative.

Vice Chair Jensen stated perhaps the complaint process should include an explanation

that complaints the Commission determines have no merit would be determined to be unfounded and also what happens if a complaint is unfounded.

The City Attorney stated a determination is needed when a complaint comes before the Commission; the Commission determination is either the complaint is legitimate or the complaint is unfounded.

Vice Chair Jensen stated the determination should have some provision stating that the complaint, while not a violation, has been either unfounded or was a legitimate complaint.

The City Attorney stated that she would be happy to add said provision.

Chair Oddie stated if the Commission finds there is not violation, there has to be a way to indicate the Commission's finding.

The City Clerk noted there would be a learning curve.

The City Attorney stated the Sunshine Ordinance complaint form requires picking an alleged violation of public records or a public meeting and the section of the Sunshine Ordinance violated.

Vice Chair Jensen moved approval of the form and process with the caveat to review issues at the next meeting.

Commissioner Wong second the motion, which carried by unanimous voice vote – 5.

3-D. Set Next Meeting.

Since the first Monday is Labor Day, Commissioner Jensen moved approval of setting October 1, 2012 as the next meeting date and amending the By-laws to October.

Commissioner Wong seconded the motion, which carried by unanimous voice vote – 5.

COMMISSIONER COMMUNICATIONS

Commissioner Spanier reiterated the proactive role of the Commission.

Commissioner Peterson discussed the need for open transparency and having key issues addressed at regular meetings.

Commissioner Spanier stated any process has a certain structure to ensure that things happen.

Commissioner Peterson stated getting better feedback on what people want would result in improvements.

Commissioner Wong stated everyone wants open government and wants to be heard; however, the confines have to be right.

Chair Oddie noted the Commission's position is not to second guess a judge.

Commissioner Peterson stated the Commission should do everything possible to ensure the process is easy and simple.

ADJOURNMENT

There being no further business, Chair Oddie adjourned the meeting at 8:19 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk

The agenda for this meeting was posted in accordance with the Sunshine Ordinance.