

RE: PROPOSED CHANGES TO PUBLIC COMPLAINT PROCEDURE

Item #10 @ SOTF 9/2/2015 Meeting:

The following comments are related to the marked copy of the proposed new Complaint Procedure [pages 391-399] in the packet. It is quite apparent that the DCA assigned to the SOTF did not review the proposed changes, as there are inconsistencies' and other drafting problems, including the formatting. My first comment would be to withdraw the draft and have it reviewed by counsel and resubmit it to the SOTF at its next meeting. In addition, it should be made available to the SOITF members and the public at least a week before the meeting at which it will be taken up.

The following are those relating to specific provisions in the draft.

#1 - ¶ A-1: I would retain the deleted text and add: "if needed." Sometime there are legal issues involving the Ordinance that require explanation.

#2 - ¶ B-2: The reference to the SOTF "staff" suggests that there are City employees assigned to the SOTF in addition to the Administrator. As it is the Administrator – unless the workload had increased – should be able to handle all the administrative responsibilities related to the SOTF.

In addition, historically, the Administrator has not been vetted to deal with issues other than those purely administrative. For example, I am not sure whether taking the annual "sunshine" program offered by the City Attorney is required. Any discretion given the "staff" should be carefully limited.

The suggestion that a "Department Representative" has to be named is contrary to the Ordinance, since there is no "official" Department Representative called for under the Ordinance. The employee to whom the request was submitted (the "custodian") is the respondent to be named. Of course, the Department Head is ultimately responsible for compliance or non-compliance with the public records laws and could be named.

Stating "the alleged violation" requires some reference to a specific Ordinance section, which is sometimes hard to pin down. The "staff" would have to assist the complainant if there is any question which section has been violated.

Since a records request can be submitted orally per §67.21(b), the "staff" can't ask for the "supporting" documentation. It will have to take the complainant's word for it.

#3 - ¶ C- 6: The entire subparagraph 6 requires serious review as it gives the Complaint Committee significant power to affect the outcome of complaints. Among the concerns are: (1) how many SOTF members will be on the Committee, (2) what will constitute a

quorum, (3), will the vote on the recommendation be a simple majority, (4) who will review the Administrator's summary of the Committee recommendation, (5) will the rules for the complainant's and Respondent's attendance at the Committee hearing be the same as for full SOTF meetings, (6) will the DCA's "summary review of the complaint" be the same as the DCA would provide the full SOTF - if not, what would be missing?

#4 - ¶ C- 7 and 8: Some text in these two subparagraphs, which appear to be unchanged from the existing procedure are not consistent with the process described in ¶C -6.

#5 - ¶ C – subparagraphs 10 and 11: I am not sure that the Administrator should have the discretion to continue or reschedule hearings is consistent with the provisions elsewhere in these two subparagraphs—the DCA should definitely review those and make them consistent. In addition, the discretion if it exists at all, should be that of the SOTF Chair rather than the Administrator.

#6 - ¶ D – What happened to this paragraph?

Respectfully submitted, in haste,

Allen Grossman