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The City Attorney responded the Sunshine Ordinance requires a semi-annual report to determine whether items that were not previously disclosed publicly could be made available for public disclosure or should remain exempt from public disclosure; stated items that are determined not to be disclosed could be made available later.

Vice Chair Dieter stated the determination of the items should be placed under the discussion section of the staff report so as not to confuse the public; placing it under the background section implies that items previously not disclosed publicly are forever more undisclosable.

The City Attorney stated her office will comply with Vice Chair Dieter's request to place items under the Discussion section.

Vice Chair Dieter suggested different language for the title of the semi-annual report: "Recommendation to Accept a List of Documents Which Have been Determined to be made public after being determined not being made available to the public" instead of "...Litigation and Liability Claim Settlements..."

The City Attorney stated that she is willing to modify language to satisfy the Commission's concerns; it is not necessarily that items are being disclosed that were not previously disclosed, but even before the Sunshine Ordinance, the City Attorney's office was required to submit a semi-annual report on litigation and liability claim settlements; the report also includes settlements; the report has two parts.

Commissioner Aguilar stated it may be easier for the public to understand if the report title distinguishes the two parts; suggested the title include numeration i.e., 1) the settlements, and 2) documents disclosable to the public.

Vice Chair Dieter concurred with Commissioner Aguilar's suggestion; inquired whether the word "declassified" could be used instead of "disclosed" in terms of the documents.

The City Attorney responded the City does not have secret, classified documents, so the term does not apply.

Vice Chair Dieter stated that she is concerned that when did an online search of the City's website using the general search bar, no results would come up; inquired whether there is an easier way to find documents using the search feature.

The Assistant City Clerk responded documents are not housed on the main website; suggested searching under Key Documents.

Commissioner Aguilar inquired whether Vice Chair Dieter was searching for the reports stating which documents were disclosable, instead of for the documents themselves, to which Vice Chair Dieter responded in the affirmative.

Vice Chair Dieter stated that she could not find the report online on the City's website; part of the Commission's responsibility is to peruse the database; if she could not find the document, the public would not be able to find it; the report is routinely prepared every six months; she would like to be able to search to find past documents.

The Assistant City Clerk stated that whenever a meeting packet is distributed, it is also published online, archived, and should be searchable; stated she would find out how Vice Chair Dieter was conducting her search and help her with the search feature.

Commissioner Tuazon stated that he has not had any problems finding documents he searches for on the City website.

In response to Vice Chair Dieter's inquiry regarding how to address a complaint from the public regarding why documents are not disclosable to the public, the City Attorney stated a Commissioner making a judgment on legal judgments would be going beyond what the Commission is impaneled to do; the City Attorney's office gives legal advice to the City Council and the Council makes the determination; it is not the charge of the Commission to be second-guessing the legal advice.

In response to Chair Foreman's inquiry, the City Attorney stated it is not this Commission's role to be a substitute for legal judgment.

In response to Vice Chair Dieter's inquiry, the City Attorney stated if someone wants to complain about why documents are not being disclosed, there is no known avenue for recourse, short of filing a lawsuit where they felt they have the right to see documents were pertinent to their case.

Vice Chair Dieter inquired what is the recourse if a Councilmember wants to have a document disclosed to the public, to which the City Attorney responded the Councilmember would have to make the request in Closed Session and the issue would be voted on; a single Councilmember cannot decide to waive attorney-client privilege, it has to be approved by the Council as a whole.

The City Attorney inquired whether there is a specific reason why the matter has become a concern for the Commission, or if there is an issue the Commission feels the City is not addressing appropriately.

Vice Chair Dieter responded in the negative; stated the issue has been discussed on a few blogs; she wanted to hear the information and provide background to anyone listening.

Commissioner Aguilar stated, in her experience, closed session minutes are not disclosed.

The City Attorney concurred with Commissioner Aguilar; stated there has never been a process of disclosing closed session minutes in her experience with three different

cities, including Alameda; the Council does, however, report on claim settlements previously discussed in closed session after an agreement has been signed; there are many other issues discussed in closed session, including personnel issues, legal strategies, legal advice, etc., which would be detrimental to the City if disclosed to the public.

### COMMISSIONER COMMUNICATIONS

Vice Chair Dieter stated it is that time again for the Commission to provide their annual report; recommended combining two issues into one report, including policy problems and alleged violations.

The City Attorney inquired whether the Commission's annual report would be presented to the Council, or just fulfilling a requirement of the Commission.

Vice Chair Dieter responded the annual report is a requirement the Commission needs to fulfill under Section 2-93.6, the section also states that the Commission could request, with advanced notice, a tally of the number of records requests made of the City Clerk's office; stated she thinks the public would find it fascinating to know how many public records requests the clerk's office has to process.

Chair Foreman stated the items should be included on the agenda for the next meeting.

### ADJOURNMENT

There being no further business, Chair Foreman adjourned the meeting at 7:37 p.m.

Respectfully submitted,

Irma Glidden  
Assistant City Clerk

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