

Date February 21, 2012

Item No. 2

File No. _____

SUNSHINE ORDINANCE TASK FORCE

COMPLIANCE AND AMENDMENTS COMMITTEE AGENDA PACKET CONTENTS LIST

ITEMS

Minutes

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Completed by: Andrea Ausberry Date February 16, 2012

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The complete document is in the file.



SUNSHINE ORDINANCE TASK FORCE
Compliance & Amendments Committee
CITY AND COUNTY OF SAN FRANCISCO
DRAFT MINUTES

Hearing Room 406
City Hall, 1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

January 10, 2012 – 4:00 PM

Regular Meeting

Members: Allyson Washburn (Chair)
David Snyder, Richard Knee, Bruce Wolfe, Hope Johnson

1. **Call to Order, Roll Call and Agenda Changes** (4:01 p.m. - 4:02 p.m.)

The meeting was called to order at 4:04 p.m. On the call of the role, Member Snyder and Member Johnson were noted absent. Member Snyder was noted present at 4:10 p.m.

Member Wolfe, seconded by Member Washburn, motioned to excuse Member Johnson.

Public Comment: None.

The motion carried by the following vote:

Ayes: 3 – Knee, Wolfe, Washburn

Absent: 1 – Snyder

2. **Adoption of December 13, 2011, regular meeting minutes.** (4:02 p.m. - 4:05 p.m.)

Members amended the minutes.

Member Knee, seconded by Member Wolfe, motioned to approve the minutes as amended.

Public Comment: Jason Grant Garza said he never received an answer to the question he asked during the December 13, 2011, Compliance and Amendments Committee meeting.

The motion carried by the following vote:

Ayes: 3 – Knee, Wolfe, Washburn

Excused: 1 – Johnson

Absent: 1 – Snyder

3. **File No. 11056:** Continued hearing on the status of the October 25, 2011, Order of Determination of Allen Grossman v Dennis Herrera and Jack Song of the City Attorney's Office. (4:05 p.m. - 5:00 p.m.)

Complainant Allen Grossman said he has identified three people who were involved in the budget process within the City Attorney's Office and has submitted a records request the each of them. Jack Song of the City Attorney's Office said he would present his case during rebuttal.

Rita O'Flynn said the Task Force should find a way to force the City Attorney to uphold the law.

Mr. Song answered questions from Members and was seen leaving the hearing room.

Member Knee, seconded by Member Wolfe, motioned to send the matter back to the Task Force with a recommendation for referral to the Ethics Commission with a request for enforcement of the Order of Determination and a violation of 67.21(e) for Mr Song's absence during the latter part of the committee's deliberation.

Public Comment: Jason Grant Garza said Mr. Grossman will never be satisfied because he will not get what he wants even if the matter is referred to the Ethics Commission. Tomas Picarello said City Attorney Dennis Herrera or his representative should be found in willful violation for not sending a knowledgeable representative. Kimo Crossman said he sees no proof that the City Attorney's Office is withholding records. Douglas Yap said the system will eventually work because of the dedication expressed by many people. He said nearly everyone at City Hall participates in obstruction of justice, dereliction of duty and abuse of power.

The motion carried by the following vote:

Ayes: 4 – Snyder, Knee, Wolfe, Washburn

Excused: 1 – Johnson

4. **File No. 11058:** Continued hearing on the status of the November 29, 2011, Order of Determination of Nick Pasquariello v Film Commission. (5:11 p.m. - 5:33 p.m.)

Complainant Nick Pasquariello said his complaint was against Susannah Greason Robbins, the executive director of the Film Commission. He requested a continuance because he recently received a set of documents and needed more time to compare it with other documents in his possession. The respondent was not present. No one in the audience offered facts and evidence on behalf of the respondent.

Member Snyder, seconded by Member Knee, motioned to continue the item.

Public Comment: Tomas Picarello said the reason the respondent was not in the audience was because the Order of Determination was against a nonentity and not a person. Allen Grossman said the Ethics Commission has shown that they will not handle Sunshine referrals unless a City official or a department head is named. Rita O'Flynn said the Commission, in dismissing her referral, did mention that the Order of Determination did

not mention the name or names who violated the Ordinance. Jason Grant Garza said Mr. Pasquariello should know that the Task Force's motion is not going to help him as long as the Ethics Commission dismisses Sunshine referrals.

The motion carried by the following vote:

Ayes: 4 – Snyder, Knee, Wolfe, Washburn

Excused: 1 – Johnson

A 5-minute recess was called.

5. **File No. 11081:** Continued hearing on the status of the November 29, 2011, Order of Determination of Jason Grant Garza v Department of Public Health. (5:47 p.m. - 6:28 p.m.)

Complainant Jason Grant Garza said he has not received the documents he requested. Eileen Shields, public information officer for the Department of Public Health, said she would stipulate to the written response dated November 9, 2011.

Member Knee, seconded by Member Wolfe, motioned to continue the matter to the next meeting to allow members to hear from HIPAA experts.

Public Comment: Allen Grossman said the Task Force needs to decide on rules based on the Public Records Act and the Sunshine Ordinance and that he sees no reason for the department to deny Mr. Garza his own medical records. Rita O'Flynn said denying Mr. Garza his public records places him at risk because if he has a medical emergency and is treated at a facility that does not have his records the quality of care he receives will be lower. Tomas Picarello said the burden was on the respondent and the assistance from the experts was unnecessary. Charles Pitts said it is a violation when the department ignores Mr. Garza's request and provide him with a non-responsive document.

The motion carried by the following vote:

Ayes: 3 – Knee, Wolfe, Washburn

Absent: 1 – Snyder

Excused: 1 – Johnson

6. **Next steps on Ethics Commission proposed policy for handling Sunshine-related complaints.** (6:28 p.m. - 6:49 p.m.)

Chair Washburn said the Committee has yet to hear from the Commission following her request for a joint meeting and she was planning a follow up letter.

Allen Grossman said Member Snyder, who is an attorney, and DCA Jerry Threet need to step forward and participate in this process. He said he has put together a packet which he will forward to Chair Washburn at a later date and was available to answer any question the Committee may have. Rita O'Flynn suggested putting a response date in the Committee's next letter to the Commission. She also said it was unacceptable for the Commission to dismiss the referrals made by Task Force. She said she was taking her case through the judicial process and that it would have been easier if the Task Force had

the authority to go with its responsibilities. Tomas Picarello said the Committee could hold informal sessions with the Commission and issues to discuss at the joint meeting could arise out of the Commission's January 23, 2012, meeting. Charles Pitts said more than one meeting is needed and perhaps a sub-committee could hash out the issues.

7. **Public Comment:** (5:01 p.m. - 5:11 p.m.)

Rita Flynn thanked the Task Force for their work in her case against the Mayor's Office of Housing. She also said the City sued her husband and offered to settle if she gave up her rights to make any claim against the City. Allen Grossman said the Task Force is not getting the support it needs from the City Attorney's Office and the Clerk of the Board. Jason Grant Garza said the Task Force should disband because it is not helping complainants get the records they want. Douglas Yap said he feels that he needs to expose the injustice around City Hall and that change will come even if her had to wait another five years..

8. **Administrator's Report.** (6:49 p.m.)

Public Comment: None

9. **Announcements, Comments, Questions, and Future Agenda Items** (6:49 p.m. - 6:50 p.m.)

Member Wolfe says the amendments process has to be restarted. Chair Said amendments back on the next month's agenda.

10. **ADJOURNMENT**

There being no further business, the Compliance and Amendments Committee adjourned at the hour of 6.51 p.m.