

File No. _____

SOTF Item No. 21
CAC Item No. _____

SUNSHINE ORDINANCE TASK FORCE
AGENDA PACKET CONTENTS LIST

Sunshine Ordinance Task Force

Date: May 2, 2012

Compliance and Amendments Committee

Date: _____

CAC/SOTF

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Completed by: Andrea Ausberry Date April 25, 2012

Completed by: _____ Date _____

*An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document is in the file.



**SUNSHINE ORDINANCE TASK FORCE
CITY AND COUNTY OF SAN FRANCISCO
DRAFT MINUTES**

**Hearing Room 408
City Hall, 1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689**

February 28, 2012 – 4:00 PM

Regular Meeting

Members: Chair Hope Johnson, Vice-Chair Bruce Wolfe, David Snyder, Richard Knee, Sue Cauthen, Suzanne Manneh, Allyson Washburn, Jay Costa, Hanley Chan, Jackson West

1. Call to Order, Roll Call, and Agenda Changes. (1:05 - 6:47)

The meeting was called to order at 4:11 p.m. Vice Chair Wolfe, Members Cauthen, Manneh, and Washburn were noted absent. There was a quorum. Member Manneh was noted present at 4:47 p.m. Member Chan left at 7:30 pm.

Member Snyder, seconded by Member Knee, moved to EXCUSE Vice Chair Wolfe and Member Washburn.

There were no speakers. **The motion PASSED without objection.**

Chair Johnson announced Deputy City Attorney Michael Karns as the interim Sunshine Ordinance Task Force attorney until the arrival of Deputy City Attorney Jerry Threet; and that Complainant Nick Pasquariello, File No. 11091, Nick Pasquariello v. the Office of David Chiu, would be absent.

2. Approval of Minutes from the October 25, 2011, Regular Meeting. (6:48 - 11:40)

Member Knee, seconded by Member Snyder, moved to accept the October 25, 2011, Minutes.

There were no speakers.

The motion PASSED by the following vote.

Ayes: 6 - Snyder, Knee, Costa, Chan, West, Johnson
Excused: 2 - Washburn, Wolfe
Absent: 1 - Cauthen, Manneh

3. **Approval of Minutes from the November 29, 2011 Special Meeting. (11:41 - 14:18)**

Members expressed concern the minutes needed more detail to be meaningful.

Member Knee, seconded by Member West, moved to CONTINUE to the regular meeting of March 7, 2012.

There were no speakers. **The motion PASSED without objection.**

4. **Approval of Minutes from the December 14, 2011 Special Meeting. (14:19 - 25:33)**

Member Knee, seconded by Member Costa, moved to accept the December 14, 2011, Minutes.

Members requested and accepted edits to the draft minutes.

Speaker: Peter Warfield, expressed clarification to the minutes to reflect specific violations in accordance with Sunshine Ordinance and that his Compliant did not receive draft minutes from the Art's Commission as promptly as required by law. There were no other speakers.

The motion PASSED by the following vote.

Ayes: 6 - Snyder, Knee, Costa, Chan, West, Johnson

Excused: 2 - Washburn, Wolfe

Absent: 1 - Cauthen, Manneh

5. **Approval of Minutes from the January 3, 2012 Special Meeting. (25:34 - 46:30)**

Member Knee, seconded West, moved to accept the January 3, 2012, Minutes.

Chair Johnson indicated that the minutes are generic and requested to have at least one line of detail for each speaker.

Member Knee, seconded by Member West, made a substitute motion to continue to the regular meeting of March 7, 2012.

Speakers: Allen Grossman, expressed concern regarding the quality of minutes; Ray Hartz, expressed the importance of having summary minutes versus action minutes; Thomas Picarello, expressed concern regarding the minutes not being specific or timely; Peter Warfield, spoke in support of the substitute motion to continue. There were no other speakers.

The motion PASSED without objection.

6. **Approval of Minutes from the January 24, 2012 Regular Meeting. (46:31 - 55:20)**

Member Knee, seconded West, moved to CONTINUE to the regular meeting of March 7, 2012.

Speakers: Peter Warfield indicated that the minutes do not meet the requirements of the Sunshine Ordinance; Ray Hartz, recited a Mark Twain quote; Thomas Picarello, spoke in support of having specific detail of speaker comments. There were no other speakers.

The motion PASSED without objection.

7. Discussion of Survey of Costs of Compliance with City Sunshine Ordinance. (1:19:38 - 1:55:53)

Member Knee provided an overview of the survey of costs of compliance with the City Sunshine Ordinance. Chair Johnson commented on the matter. Member Snyder commented on the cost analysis by the Budget and Legislative Analyst's Office on the Sunshine Ordinance Task Force.

Speakers: Patrick Monette-Shaw, spoke expressing opposition to the survey of costs of compliance. Thomas Picarello, advised the Task Force to respond with comments to the Budget and Legislative Analyst's Office regarding the survey. Peter Warfield, spoke expressing concerns regarding the survey of costs of compliance and reluctance of Budget and Legislative Analyst's Office to release survey information. Ray Hartz, spoke expressing concern relating to nondisclosure of the survey of costs of compliance. There were no other speakers.

Member Costa, seconded by Member Knee, moved to Continue to the regular meeting of March 7, 2012 meeting.

The motion PASSED without objection.

RECESS

The Task Force reconvened at 6:31 p.m.

8. **File No. 11056:** The Compliance and Amendments Committee has referred Case No.11056, Allen Grossman v Dennis Herrera and Jack Song of the City Attorney's, Office, back to the Task Force with a recommendation that it be referred to the Ethics Commission with a request for enforcement of the Order of Determination, and to find Mr. Song in violation of Sunshine Ordinance Section 67.21(e) for being absent during the latter part of the committee's hearing on the item. (2:16:53 -2:42:31)

Member Chan disclosed he knew Jack Song, but did not believe that would prejudice him on this matter.

Complainant Allen Grossman provided an overview of the status of compliance with the Order and further requested the Task Force not refer the case to the Ethics Commission. There were no speakers in support of Complainant. Respondent Jack Song of the City Attorney's Office requested to present a presentation during his time allotted for rebuttal. There were no speakers in support of Respondent. A question and answer period followed. Respondent provided a rebuttal and further requested the Task Force to dismiss the complaint. Complainant provided a rebuttal.

Speakers: Thomas Picarello, spoke expressing support for the violation to be referred to the Ethics Commission. Ray Hartz, spoke expressing support for the item to be referred to the Ethics Commission. Peter Warfield, spoke expressing concerns regarding Mr. Song and the City Attorney's Office. Charles Pitts, spoke expressing concern that complainant should not have the right to sweep findings under the rug. There were no other speakers.

Member Costa, seconded by Member Manneh, moved to find Jack Song in violation of Sunshine Ordinance Section 67.21(e) based on his walking out of the Compliance and Amendments hearing, and refer both the 67.21(e) violation and Order of Determination to the Ethics Commission for appropriate action and enforcement.

The motion PASSED by the following vote:

Ayes: 6 - Snyder, Knee, Manneh, Costa, Chan, West, Johnson

Excused: 2 - Washburn, Wolfe

Absent: 1 - Cauthen

9. Reconsideration of **File No. 11008**: Complaint filed by William Clark against the Arts Commission regarding incomplete audio cassette tape of the January 12, 2011 Street Artists Program Committee meeting. (2:44:24 - 3:29:37)

Complainant William Clark provided an overview of the complaint, and expressed concern of not receiving an unredacted audio cassette of the meeting. There were no speakers in support of complainant. Respondent Julio Mattos Arts Commission, provided an overview of the Commission's response, responded to questions raised throughout the discussion, and further requested the Task Force to dismiss the complaint. There were no speakers in support of respondent. A question and answer period followed. Respondent declined his time allotted for rebuttal. Complainant provided a rebuttal and further requested the Task Force to find violation.

Member Knee suggested sending the item to the Compliance and Amendments Committee.

Chair Johnson, seconded by Member Knee, moved to find violation of Sunshine Ordinance Sections 67.14(b), 67.16, 67.21(e), 67.34 based on the willful failure to provide an audio recording that was not erased or destroyed, include missing dialogue in the minutes, and send a knowledgeable representative to the hearing. Respondent is to work with complainant to have the minutes reflect the missing portion and mark tape to refer to the minutes; referral to Compliance and Amendments Committee.

Speaker: Ray Hartz, spoke expressing concern regarding the Arts Commission's audio equipment being in compliance with Sunshine Ordinance. There were no other speakers.

The motion PASSED by the following vote:

Ayes: 6 - Snyder, Knee, Manneh, Costa, West, Johnson

Excused: 2 - Washburn, Wolfe
Absent: 1 - Cauthen, Chan

ORDERED DETERMINED and REFERRED TO COMPLIANCE AND AMENDMENTS.

10. **File No. 11050:** Determination of jurisdiction on complaint filed by, Barbara Thompson against the Board of Appeals for allegedly interrupting her during public comment. (3:29:00 - 3:29:37)

Member Knee, seconded by Member Costa, moved to find jurisdiction.

There were no speakers. **The motion PASSED without objection.**

11. **File No. 11050:** Hearing on complaint filed by Barbara Thompson against the Board of Appeals for allegedly interrupting her during public comment. (3:29:38 - 4:17:14)

Complainant Barbara Thompson provided an overview of the complaint, responded to questions raised throughout the discussion, and requested the Task Force find violation. There were no speakers in support of complainant. Respondent Cynthia Goldstein, Board of Appeals, provided an overview of the Board's response, responded to questions raised throughout the discussion, and further requested the Task Force to dismiss the complaint. There were no speakers in support of respondent. A question and answer period followed. Respondent provided a rebuttal and further requested the Task Force to dismiss the complaint. Complainant provided a rebuttal and further requested the Task Force to find violation.

Respondent stated that only speakers who wish to have their comments considered in the Board's deliberations are required to take an oath; members of the public are not required to take an oath to speak during general public comment.

Due to a lack of a motion, the Task Force FOUND NO VIOLATION.

Speaker: Ray Hartz, expressed concern on having to be sworn in to speak at the Board of Appeals. There were no other speakers

RECESS

The Task Force reconvened at 8:50 p.m.

12. **File No. 11088:** Hearing on complaint filed by Ray Hartz against the Ethics Commission for allegedly failing to include his 150-word summary in the body of its meeting minutes. (4:46:58 - 5:26:15)

Complainant Ray Hartz provided an overview of the complaint, responded to questions raised throughout the discussion, and further requested the Task Force find violation. There were no speakers in support of complainant. Complainant reminded the Task Force of its previous rulings in File Nos. 10054 and 11054. Respondent Ethics

Commission did not appear to respond or answer questions. There were no speakers in support of respondent. Complainant provided a rebuttal and further requested the Task Force find violation.

Chair Johnson, seconded by Member Costa, moved to find John St. Croix in violation of Sunshine Ordinance Sections 67.16 for failure to include the 150 word statement in the body of the minutes and 67.21(e) for failure to appear at the hearing based on Task Force's prior rulings interpreting the phrase "in the minutes" regarding inclusion of 150 word statements and its implied jurisdiction pursuant to 67.30(c), and refer the matter to Compliance and Amendments Committee.

Speaker: David Pilpel, spoke expressing disagreement with the proposed motion. There were no other speakers.

The motion PASSED by the following vote:

Ayes: 6 - Snyder, Knee, Manneh, Costa, West, Johnson

Excused: 2 - Washburn, Wolfe

Absent: 1 - Cauthen, Chan

ORDERED DETERMINED and REFERRED TO COMPLIANCE AND AMENDMENTS.

13. **File No. 11089:** Determination of jurisdiction on complaint filed by Bobb Birkhead against the City Attorney's Office for allegedly withholding documents (5:27:44 - 5:29:47)

Member Knee, seconded by Member Costa, moved to CONTINUE to the regular meeting of April 4, 2012.

There were no speakers. **The motion PASSED without objection.**

14. **File No. 11089:** Hearing on complaint filed by Bobb Birkhead against the City Attorney's Office for allegedly withholding documents. (5:27:44 - 5:29:47)

Member Knee, seconded by Member Costa, moved to CONTINUE to the regular meeting of April 4, 2012.

There were no speakers. **The motion PASSED without objection.**

15. **File No. 11090:** Determination of jurisdiction on complaint filed by Patrick Monette-Shaw against the Controller's Office for not providing data in a requested format. (1:17:18 - 1:19:05)

Complainant requested a continuance. Respondent agreed to the requested continuance.

Member Knee, seconded by Member West, moved to CONTINUE to the regular meeting of March 7, 2012.

There were no speakers. **The motion PASSED without objection.**

16. **File No. 11090:** Hearing on complaint filed by Patrick Monette-Shaw against the Controller's Office for not providing data in a requested format. (1:19:06 - 1:22:10)

Complainant requested a continuance. Respondent agreed to the requested continuance.

Member Knee, seconded by Member West, moved to CONTINUE to the regular meeting of March 7, 2012.

There were no speakers. **The motion PASSED without objection.**

17. **File No. 11091:** Determination of jurisdiction on complaint filed by Nick Pasquariello against the Office of Supervisor David Chiu for allegedly not responding to an Immediate Disclosure Request.

Complainant requested a continuance.

Member West, seconded by Member Chan, moved to CONTINUE to the Call of the Chair

There were no speakers. **The motion PASSED without objection.**

18. **File No. 11091:** Hearing on complaint filed by Nick Pasquariello against the Office of Supervisor David Chiu for allegedly not responding to an Immediate Disclosure Request. (5:30:28 - 5:32:49)

Complainant requested a continuance.

Member West, seconded by Member Chan, moved to CONTINUE to the Call of the Chair

There were no speakers. **The motion PASSED without objection.**

19. **File No. 11093:** Determination of jurisdiction on complaint filed by John Darmanin against Fire Marshal Thomas Harvey for allegedly not releasing several internal documents. (5:30:28 - 5:34:00)

Member Knee, seconded by Member Manneh, moved to dismiss the case with the option to re-file due to the Complainant's absence.

There were no speakers. **The motion PASSED without objection.**

20. **File No. 11093:** Hearing on complaint filed by John Darmanin against Fire Marshal Thomas Harvey for allegedly not releasing several internal documents. (5:30:28 - 5:32:49)

Member Knee, seconded by Member Manneh, moved to dismiss the case with the option to re-file due to the Complainant's absence.

There were no speakers. **The motion PASSED without objection.**

21. **File No. 11094:** Determination of jurisdiction on complaint filed by Charles Pitts against the non-profit Community Housing Partnership for allegedly not providing requested information. (4:22:54 -4:46:16)

Complainant Charles Pitts argued for jurisdiction based on respondent's contract with the City. There were no speakers in support of complainant. Respondent Jeffery Kohler, Community Housing Partnership, provided a response. There were no speakers in support of respondent. A question and answer period followed. Respondent provided a rebuttal and requested the Task Force dismiss the complaint. Complainant provided a rebuttal and further requested the Task Force find jurisdiction.

Member Knee, seconded by Member Snyder, moved to find no jurisdiction.

Speaker: David Pilpel stated opposition to the motion.

There were no speakers. **The motion PASSED without objection.**

The motion PASSED without objection.

22. **File No. 11094:** Hearing on complaint filed by Charles Pitts against the non-profit Community Housing Partnership for allegedly not providing requested information. (4:22:54 -4:46:16)

The Task Force found no jurisdiction.

23. **Public Comment:** (55.22. - 1:17:17)

Speakers: Peter Warfield, expressed concerns regarding Ethics and Library Commissions. Patrick Monette-Shaw, expressed concern the Sunshine Ordinance Task Force subscribers list was not retained from the prior administrator and interest in being added. William Clark, spoke expressing concern relating to Street Artist program. Allen Grossman, spoke expressing concern relating to the Administrator's role and duties. Peter Warfield, spoke expressing concern regarding the lack of detail with the history of complaints in the complaint log. Ray Hartz, spoke expressing the improvements made due to the Task Force. Thomas Picarello, spoke expressing concerns of not having the Ex-officio Member present and the inconvenience of having hearings called late into the evening due to the number of items on the agenda. There were no other speakers.

24. **Report: Education, Outreach and Training Committee meeting of February 9, 2012.** (5:33:12 - 5:35:01)

Member Costa made the report.

There were no speakers.

25. **Report: Compliance and Amendments meeting of February 14, 2012.** (5:35:02 - 5:39:02)

Chair Johnson and Member Knee made the report.

Speaker: David Pilpel expressed concern regarding the date of a joint Ethics meeting of the Ethics Commission and the Task Force's Compliance and Amendments Committee.

26. **Report: Technology Committee meeting of February 10, 2012.** (5:40:07 - 5:44:02)

Members West and Costa made the report.

Speaker: David Pilpel expressed concern regarding the objective of the committee.

27. **Administrator's Report.** (5:44:03 - 5:46:12)

The Administrator made the report.

Speaker: David Pilpel expressed concern regarding the transition and complaint backlog.

28. **Announcements, Comments, Questions, and Future Agenda Items.** (5:46:13 - 5:55:12)

Member Knee made an announcement that the Society of Professional Journalists, Northern California Chapter, will hold its annual James Madison Awards Dinner on March 15, 2012. Chair Johnson announced that the non-profit meeting announcements binder in the library is not posted electronically and asked if a committee member would assist. Chair Johnson also suggested designing a Good Guide from the Sunshine Ordinance Task Force's perspective.

Speaker: David Pilpel, spoke expressing the benefit of having a pending list for items to be heard.

29. **ADJOURNMENT**

Member Knee, seconded by Member West, moved to ADJOURN.

There were no speakers. **The motion PASSED without objection.**

There being no further business, the Task Force adjourned at the hour of 10:18 p.m.