

File No. N/A

SOTF Item No. 6

CAC Item No. _____

SUNSHINE ORDINANCE TASK FORCE
AGENDA PACKET CONTENTS LIST

Sunshine Ordinance Task Force

Date: July 11, 2012

Compliance and Amendments Committee

Date: _____

CAC/SOTF

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Completed by: Andrea Ausberry Date July 3, 2012

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*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**

May 2, 2012 – 4:00 PM

Regular Meeting

Members: Chair Hope Johnson, Bruce Wolfe (Vice-Chair),
Richard Knee, Suzanne Manneh, Allyson Washburn, Jay Costa,
Hanley Chan, Jackson West

1. CALL TO ORDER, ROLL CALL, AND AGENDA CHANGES (00:00:00 - 00:07:43)

The meeting was called to order at 4:33 p.m. Vice Chair Wolfe, Members Snyder, Cauthen, Manneh, and Chan were noted absent. There was a quorum. Member Manneh was noted present at 5:38 p.m.

Chair Johnson appointed Vice Chair Wolfe to preside over the May 2, 2012, regular meeting.

There were no speakers.

2. Supervisor of Records Report - Presented by Paula Jesson, Deputy City Attorney. (00:07:43 - 00:23:01)

Paula Jesson, Deputy City Attorney, presented information concerning the Supervisor of Records Report and answered questions raised.

Speakers: Patrick Monette-Shaw spoke expressing concern with the supervisor of records report (see addendum); Peter Warfield spoke expressing objection with the report; Ray Hartz spoke expressing concern with the Supervisor of Records not being in compliance to respond to complaints; David Pilpel spoke expressing support for the report.

3. Resolution to support SB1001 to protect California's political disclosure database, Cal-Access. (00:43:05 - 00:56:55)

Emily Salgado, Office of Senator Leland Yee, presented information concerning the Supervisor of Records Report and answered questions raised.

Member Washburn, seconded by Member Johnson, moved to write a letter of support for the Senate Bill 1001.

Speaker: Patrick Monette-Shaw spoke in support of the Sunshine Ordinance Task Force supporting Senate Bill 1001.

The motion PASSED by the following vote:

Ayes: 6 - Costa, Knee, Washburn, West, Johnson, Wolfe

Absent: 2 - Chan, Manneh

4. Resolution to support SB1003 to provide injunctive and declaratory relief on past actions by local agencies under the Ralph M. Brown Open Meetings Act. (00:56:56 - 01:13:10)

Emily Salgado, Office of Senator Leland Yee, presented information concerning the Supervisor of Records Report and answered questions raised.

Member Knee, seconded by Member Costa, moved to write a letter of support for the Senate Bill 1003.

Speakers: Paul Courier spoke in support of the Sunshine Ordinance Task Force supporting Senate Bill 1001; Jason Grant Garza spoke expressing objection with Senate Bill 1003; Pastor Gavin spoke in support of closing the loop holes of the Brown Act; Doug Comstock spoke in support of Senate Bill 1003; Peter Warfield spoke in support of not having a statute of limitation.

The motion PASSED by the following vote:

Ayes: 7 - Costa, Knee, Manneh, Washburn, West, Johnson, Wolfe

Absent: 1 - Chan

5. Survey of Costs of Compliance with Sunshine Ordinance. (01:13:10 - 01:57:12)

Member Knee presented the item. Member Washburn expressed that overall according to the report the Sunshine Ordinance Task Force does not cost the City an exuberant amount of money. Chair Johnson expressed that Supervisor Wiener did not respond to her request to meet and that though the Board of Supervisors expresses their willingness to work in partnership with the Sunshine Ordinance Task Force (SOTF) the SOTF was not contacted and was alleviated from the survey process. Member Knee expressed that SOTF saves money in comparison to City overtime.

Speakers: Patrick Monette Shaw spoke in support of Member Knees comments; Michael Trellis spoke in support of Supervisor Wiener speaking to the SOTF regarding survey; Paul Courier spoke in support of a special meeting regarding the survey and that Supervisor Wiener should be required to attend; Pastor Gavin spoke expressing that Supervisor Wiener should speak before the SOTF and support of a special meeting regarding the survey; Jason Grant Garza spoke expressing the authority or lack of the SOTF has; Doug Comstock spoke expressing that Supervisor Wiener should be censured; Peter Warfield spoke expressing the cost of the violators of the Sunshine Ordinance and consultation with City attorneys; Derek Kerr spoke expressing disappoint with Supervisor Wiener for not responding to the SOTF.

No Action Taken**6. Motion to schedule a Special Meeting in July 2012, due to Regular Meeting convening on July 4, 2012, a holiday. (01:57:13 - 01:59:22)**

Member Washburn, seconded by Member Johnson, moved to schedule a special meeting on July 11, 2012, depending on meeting room availability.

Speaker: David Pilpel spoke in support of waiting until new members are seated to make the vote to reschedule the regular July meeting day.

The motion PASSED by the following vote:

Ayes: 7 - Costa, Knee, Manneh, Washburn, Johnson, Wolfe
Absent: 2 - Chan, West

Recess 6:30 pm – 6:40 pm

7. **File No. 11084:** Reconsideration of File No. 11084 Complaint filed by Library Users Association against the Arts Commission for not providing an audio recording of a meeting. (01:59:23 - 02:33:22)

Vice Chair Wolfe provided a recap of the prior proceedings. The Sunshine Ordinance Task Force attorney advised that the file be heard as a hearing.

Peter Warfield (Complainant) provided an overview of the complaint and further requested the Task Force to find violation. There were no speakers in support of the Complainant. Julio Mantos (Respondent), Arts Commission, provided an overview of the Agency's defense and further requested the Task Force to dismiss the complaint. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent waived his right to rebuttal. The Complainant provided a rebuttal and further requested the Task Force to find violation.

Member Johnson, seconded by Member Costa, moved to find P.J. Johnson, former Chair of the Arts Commission in violation of Sunshine Ordinance Section 67.14(b) based on the failure to record its meeting. The Visual Arts Committee is a standing committee under the Arts commission; invite the current Chair of the Arts Commission to appear before the Education Outreach and Training Committee; and referral to Education Outreach and Training Committee to confirm that meetings will be recorded.

Speaker: Male Speaker spoke expressing concern for the Arts Commission's failure to record its meetings.

The motion PASSED by the following vote:

Ayes: 7 - Costa, Knee, Manneh, Washburn, Johnson, Wolfe
Noes: 1 - West
Absent: 1 - Chan

8. **File No. 11099:** Hearing on complaint filed by Jason Grant Garza against the Department of Public Health for allegedly not providing requested information. (02:33:23 - 03:02:12)

Jason Grant Garza (Complainant) provided an overview of the complaint and further requested the Task Force to find violation. There were no speakers in support of the Complainant. The Respondent was not present. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent was not present for the rebuttal. The Complainant provided a rebuttal and further requested the Task Force to find violation.

Member Costa, seconded by Member Knee, moved to find Barbara Garcia, Department of Public Health, in violation of Sunshine Ordinance 67.21 (e) based on failure to provide a representative to appear before the Task Force; referral to Education Outreach and Training Committee.

The motion PASSED by the following vote:

Ayes: 7 - Costa, Knee, Manneh, Washburn, Johnson, Wolfe
Absent: 2 - Chan, West

9. **File No. 12005:** Complaint filed by Anonymous against the Municipal Transportation Agency for allegedly not providing camera footage. (03:02:14 - 03:02:23)

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

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

By unanimous consent the item was CONTINUED to June 6, 2012

10. **File No. 12011:** Complaint filed by Lars Nyman against Frank Lee, Department of Public Works for allegedly not providing requested records regarding the Montgomery - Alta Street Tree Project. (03:02:22 - 03:44:02)

Chair Johnson, seconded by Member Knee, moved to find jurisdiction.

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

Lars Nyman (Complainant) provided an overview of the complaint and further requested the Task Force to find violation. There were no speakers in support of the Complainant. Frank Lee (Respondent), Department of Public Works, provided an overview of the Agency's defense and further requested the Task Force to dismiss the complaint. There were no speakers in support of the Respondent. A question and answer period followed. The 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.

Frank Lee (Respondent) stated he will speak with his IT department to obtain the original email formatting for Lars Nyman (Complainant).

Member Johnson, seconded by Member Costa, moved to find Frank Lee, Department of Public Works, in violation of Sunshine Ordinance Section 67.21 (a) for unreasonable delay and 67.26 based on failure to keep withholding to a minimum by redacting the contact information, 67.27 for failure to provide reason, 6253.9(a) of the California Public Records Act for failure to provide a copy of the requested document in electronic format requested; and referral to Compliance and Amendments Committee.

Speaker: Peter Warfield spoke providing information regarding redacting of personal email, addresses on documents.

The motion PASSED by the following vote:

Ayes: 7 - Knee, Manneh, Washburn, Wolfe
Noes: 1- Costa, Johnson
Absent: 2 - Chan, West

Recess 9:10 PM – 9:15 PM

11. **File No. 12012:** Complaint filed by Lars Nyman against Frank Lee, Department of Public Works for allegedly not providing requested records and delayed response. (03:44:05 - 04:32:22)

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

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

Lars Nyman (Complainant) provided an overview of the complaint and further requested the Task Force to find violation. There were no speakers in support of the Complainant. Frank Lee (Respondent), Department of Public Works, provided an overview of the Agency's defense and further requested the Task Force to dismiss the complaint. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent waived his right to rebuttal. Complainant provided a rebuttal and further requested the Task Force to find violation.

Member Johnson, seconded by Member Manneh, moved to find Frank Lee, Department of Public Works, in violation of Sunshine Ordinance Section 67.25 (b) for failure to provide document, 67.25(d) for failure to provide on rolling basis, 67.21 (e) failure to comply with the public records request, 6253 (c) of the California Public Records Act for failure to respond within 14-day extension; and referral to Compliance and Amendments Committee.

There were no speakers.

The motion PASSED by the following vote:

Ayes: 6 - Costa, Knee, Manneh, Washburn, Wolfe, Johnson

Absent: 2 - Chan, West

12. **File No. 12013:** Complaint filed by William Clark against Howard Lazar, Arts Commission for allegedly not providing documents of expenses charged to the Street Artist Program for FY 2010-2011. (04:32:23 - 05:02:12)

Member Johnson, seconded by Member Manneh, moved to find jurisdiction.

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

William Clark (Complainant) provided an overview of the complaint, findings, follow-up, and further requested the Task Force to find further violations. There were no speakers in support of the Complainant. Julio Mantos (Respondent), on behalf of Howard Lazar, Arts Commission, provided an overview of the Arts Commission's defense and further requested the Task Force to dismiss the complaint. There were no speakers in support of the Respondent. A question and answer period followed. Complainant responded to questions raised throughout the discussion and further requested the Task Force to find further violations. The 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.

Chair Johnson, seconded by Knee, moved to CONTINUE the item to June 6, 2012.

There were no speakers.

The motion PASSED by the following vote:

Ayes: 6 - Costa, Knee, Manneh, Washburn, Wolfe, Johnson

Absent: 2 - Chan, West

13. **File No. 12014:** Complaint filed by William Clark against Tom DeCaigny, Arts Commission for allegedly not providing an itemized list of expenditures for the Street Artist Program FY 2012-2013 budget. (05:02:12 - 05:02:18)

Member Costa, seconded by Member Manneh, moved to CONTINUE the item to June 6, 2012.

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

14. **File No. 12015:** Compliant filed by William Clark against Ben Rosenfield, Controller, Controller's Office for allegedly not providing documents regarding the authorization of expenditures by the Street Artist Program. (05:02:18 - 05:32:21)

Chair Johnson, seconded by Member Manneh, moved to find jurisdiction.

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

Robert Clark (Complainant) provided an overview of the complaint, findings, follow-up, and further requested the Task Force to find further violations. There were no speakers in support of the Complainant. Monique Zmuda (Respondent), Controller's Office, provided an overview of the Agency's defense and further requested the Task Force to dismiss the complaint. There were no speakers in support of the 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.

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

15. **File No. 12016:** Complaint filed by Michael Petrelis against Castro Community Benefit District for allegedly not providing proper public notice of the agenda and accurate minutes. (05:32:22 - 05:32:33)

Member Knee, seconded by Member Washburn, moved to find no Jurisdiction.

The motion PASSED by the following vote:

Ayes: 5 – Costa, Knee, Manneh, Washburn, Vice Chair Wolfe,

Noes: 1 – Chair Johnson

Absent: 2 - Chan, West

16. **Approval of Minutes from the April 4, 2012, Regular Meeting.**

By unanimous consent the item was CONTINUED to June 6, 2012

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

17. **Approval of Minutes from the October 25, 2011, Regular Meeting.**

By unanimous consent the item was CONTINUED to June 6, 2012

- There were no speakers. **The motion PASSED without objection.**
18. **Approval of Minutes from the November 29, 2011, Special Meeting.**
By unanimous consent the item was CONTINUED to June 6, 2012
There were no speakers. **The motion PASSED without objection.**
19. **Approval of Minutes from the January 3, 2012, Special Meeting.**
By unanimous consent the item was CONTINUED to June 6, 2012
There were no speakers. **The motion PASSED without objection.**
20. **Approval of Minutes from the January 24, 2012, Special Meeting.**
By unanimous consent the item was CONTINUED to June 6, 2012
There were no speakers. **The motion PASSED without objection.**
21. **Approval of Minutes from the February 28, 2012, Regular Meeting.**
By unanimous consent the item was CONTINUED to June 6, 2012
There were no speakers. **The motion PASSED without objection.**
22. **Approval of Minutes from the March 7, 2012, Regular Meeting.**
By unanimous consent the item was CONTINUED to June 6, 2012
There were no speakers. **The motion PASSED without objection.**
23. **Public Comment:** Members of the public may address the Sunshine Ordinance Task Force (SOTF) on matters that are within SOTF's jurisdiction, but not on today's agenda.

Speakers: Doug Comstock spoke honoring Member Sue Cauthen; Patrick Monette-Shaw spoke honoring and presenting a gift to Member Knee; Jason Grant Garza spoke expressing concern with his complaints and read a statement from the Ethic Commission meeting regarding SOTF referrals; Ray Hartz spoke honoring Member Snyder; Peter Warfield spoke honoring Chair Johnson; Derek Kerr spoke honoring the Members of SOTF; Lars Nyman spoke honoring for the SOTF the Members; Pastor Gavin spoke reading a statement honoring the Members of SOTF; Paul Courier spoke expressing concern with central tabulation unit and praise for the Members of SOTF.
24. **Report: Compliance and Amendments meeting of March 20, 2012.**

In the interest of time, the report was not heard.
25. **Administrator's Report.**

In the interest of time, the report was not heard.

26. **Announcements, Comments, Questions, and Future Agenda Items.**

In the interest of time, the report was not heard.

27. **ADJOURNMENT**

There being no further business, the Task Force adjourned at the hour of 11:05 p.m.

Addendum

The following information is provided by a speaker, pursuant to Administrative Code Section 67.16. The content is neither generated by, nor subject to approval or verification of accuracy by, the Sunshine Ordinance Task Force.

Patrick Monette-Shaw submitted the following additional information for Public Comment as follows:

Agenda Item #2: Supervisor of Records Report by Paula Jesson (150 words)

I'm concerned by the presentation Deputy City Attorney Paul Jesson just delivered as the City Attorney's Supervisor of Records.

Her report claims that in 2011, the Supervisor of Records was only asked nine times to determine whether records requested actually involved "public records." The City Attorney's Office claimed in response to the Board of Supervisors Budget and Legislative Analyst, Harvey Rose's "Costs of Compliance with the Sunshine Ordinance" inquiry, that it had spent \$51,949 on the Supervisor of Records. At just nine inquiries during 2011, this averages \$5,775 per each inquiry, inflating costs directly attributable to costs of Sunshine, vs. costs due to CPRA.

Jesson claimed regarding records inquiry #7, that City Attorney Dennis Herrera's *Good Government Guide* asserts retrieval of records from backup tapes is analogous to getting lawfully-discarded records out of a City dumpster, which proves Herrera's *Good Government Guide* isn't worth the toilet paper it's written on.

Agenda Item on Public Comment (150 words)

As a member of the Sunshine Posse — a group of open government advocates concerned about knowing what San Francisco's government is doing on our behalf — I'm pleased to present this engraved paperweight tonight to outgoing Sunshine Task Force member Richard Knee.

It reads: "Richard Knee. In appreciation for service to the people of the City and County of San Francisco. Sunshine Ordinance Task Force."

Mr. Knee was first nominated in 2002 by the Society of Professional Journalists–Northern California Chapter's Freedom of Information subcommittee for a seat on the Sunshine Task Force. The Board of Supervisors confirmed his initial appointment, and the Board renewed his reappointments in 2004, 2006, 2008, and 2010. Richard served as the Task Force's chair person in 2009–010 and 2010–11.

Thank you, Richard, for your dedication and commitment to open government and freedom of information, and an admirable decade of service to San Franciscans.