

Date: January 13, 2009

Item No. 2

File No. 08053

**SUNSHINE ORDINANCE TASK FORCE
COMPLAINT COMMITTEE
AGENDA PACKET CONTENTS LIST***

- Peter Witt v Taxi Commission**
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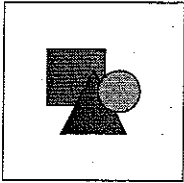
Completed by: Chris Rustom

Date: January 9, 2009

***This list reflects the explanatory documents provided**

~ Late Agenda Items (documents received too late for distribution to the Task Force Members)

** The document this form replaces exceeds 25 pages and will therefore not be copied for the packet. The original document is in the file kept by the Administrator, and may be viewed in its entirety by the Task Force, or any member of the public upon request at City Hall, Room 244.



DENNIS J. HERRERA
City Attorney

ERNEST H. LLORENTE
Deputy City Attorney

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December 22, 2008

Nick Goldman, Chair
Members of the Complaint Committee

Re: *PETER WITT v. TAXI COMMISSION* (08053)

Dear Chair Goldman and Members of the Complaint Committee:

This letter addresses the issue of whether the Sunshine Ordinance Task Force ("Task Force") has jurisdiction over the complaint of Peter Witt against the San Francisco Taxi Commission.

BACKGROUND

Peter Witt frequently attends the Taxi Commission Meeting and has from time to time filed complaints against the Taxi Commission for alleged violations of the meeting laws as stated in the Sunshine Ordinance. Recently, Peter Witt filed a complaint against the Taxi Commission for its failure to attach his 150 word statement to the minutes of a commission meeting. The case was numbered (08047) and was heard on October 28, 2008. The Task Force found a violation of 67.16 and at a November 12, 2008 Compliance and Amendments Committee Meeting, the CAC and Jordanna Thigpen, Executive Director of the Taxi Commission worked out an arrangement whereby citizens' public comment statements of 150 words or less would be incorporated into the minutes. Subsequent to this CAC meeting, Peter Witt filed a complaint regarding this same issue and other issues.

COMPLAINT

On November 19, 2008, Peter Witt filed a complaint against the Taxi Commission alleging violations of the Sunshine Ordinance.

SHORT ANSWER

Based on Complainant's allegation and the applicable sections of the Sunshine Ordinance and the California Public Records Act, which are cited below, the Sunshine Ordinance Task Force *does* have jurisdiction over the allegation. The allegations are covered under (67.16 and 67.21) of the Ordinance.

Letter to the Complaint Committee

Page 2

Date:

DISCUSSION AND ANALYSIS

Article I Section 3 of the California Constitution as amended by Proposition 59 in 2004, the State Public Records Act, the State Brown Act, and the Sunshine Ordinance as amended by Proposition G in 1999 generally covers the area of Public Records and Public Meeting laws that the Sunshine Ordinance Task Force uses in its work.

The Sunshine Ordinance is located in the San Francisco Administrative Code Chapter 67. All statutory references, unless stated otherwise, are to the Administrative Code. Section 67.21 generally covers requests for documents and 67.16 covers Meeting Minutes and the inclusion of 150 word statements.

In this case, the allegation of a Commission failure to put the 150 word statement into puts the complaint within 67.16 of the Ordinance. However this issue was addressed and resolved in case number (08047) As to the complaint of the Commission's knowing failure to correct the minutes, the complaint of the Commission's failure to grant requests for information, and the Complaint of the Commission's failure to disseminate or retain public correspondence from the public intended for "P.C. & N.", there is insufficient information to determine if the Task Force has jurisdiction over these complaints. Peter Witt will need to provide further information at the Complaint Committee hearing. The Task Force will ultimately determine whether or not the Taxi Commission violated the Sunshine Ordinance.



<complaints@sfgov.org>
11/19/2008 03:51 PM

To <soff@sfgov.org>
cc
bcc
Subject Sunshine Complaint

Submitted on: 11/19/2008 3:51:28 PM

Department: taxicab commission

Contacted:

Public_Records_Violation: Yes

Public_Meeting_Violation: Yes

Meeting_Date: April 10th 2007, Oct 14th 2008

Section(s)_Violated:

Description: 1.failing to include public comments -for the record- in the minutes.

2.Knowing failing to correct the minutes.

3.Failing to grant requests for information.

4.Knowing failing disseminate or retain public correspondence from the public, intended for "P. C. & N.". use.

Hearing: Yes

Pre-Hearing: No

Date: 11/12/08

Name: Peter Witt

Address:

City: San Francisco

Zip: 94123

Phone:

Email:

Anonymous:

Confidentiality_Requested: Yes

**BOARD OF APPEALS
CITY AND COUNTY OF SAN FRANCISCO**

UNITED TAXI WORKERS
PETER WITT
BARRY TARANTO

Appellants,

vs.

SAN FRANCISCO TAXI
COMMISSION,

Respondent.

Appeal Nos.
08-003; 08-007; 08-009

DATE: April 2, 2008
TIME: 5:00 p.m.
PLACE: Room 416, City Hall

Appeal of PC&N Determination
Issuing 69 alt fuel or hybrid taxis

RESPONDENT TAXI COMMISSION'S BRIEF

HEIDI MACHEN
Executive Director
SAN FRANCISCO TAXI COMMISSION
25 Van Ness Avenue—Suite 420
San Francisco, California 94102
Telephone: (415) 503-2180
Facsimile: (415) 503-2186
sftaxi.commission@sfgov.org

For Respondent
SAN FRANCISCO TAXI COMMISSION

I. INTRODUCTION

Three appellants have filed appeals against the Taxi Commission's issuance of 69 additional alternative fuel or hybrid taxis: United Taxi Workers, Peter Witt and Barry Taranto. Because this appeal involves substantially the same subject matter, Taxi Commission respectfully requests that the appeals, as listed above, be consolidated; and the Commission submits this one brief in response to all three appeals.

San Francisco had 1381 taxis to serve its residents and visitors between 2000 and 2007. Each year, the Taxi Commission conducts a Public Convenience and Necessity hearing to determine whether the number of taxi permits issued is adequate to serve the public. In advance of those annual hearings, Commission staff conducts a taxi availability study to gather data from which to make a decision. At a publicly noticed hearing on February 13, 2007, the Commission considered a staff recommendation on whether to add more taxis. On February 27, after careful deliberation and ample public input including written and oral testimony, the Commission added 25 more ramped disabled accessible taxis and added 25 more alternative fuel or hybrid taxis. The Commission decided to reserve its consideration of another 50 taxis that it deemed necessary to meet response time goals until it had examined the viability of "peak-time" medallions which would serve the public only during times of greatest need such as rush hour. In the meantime, Peter Witt appealed the original release of 50 taxis to the Board of Appeals. Board of Appeals upheld the Taxi Commission's decision.

AND

Between August and November, 2007, the Taxi Commission studied the issue of peak time medallions, held hearings, obtained one memorandum from the City Attorney on a narrow issue of peak-time medallions, and obtained industry and public input. On October 9, 2007, the Commission re-opened the 2007 Public Convenience and Necessity Hearing. After deciding that peak-time medallions were not economically viable within the confines of the current regulatory structure, the Taxi Commission decided to remedy the problem of unmet service needs by issuing 69 more alternative fuel or hybrid taxis, rather than the originally considered 50 additional taxis, in order to bring the overall fleet to a total of 1500 taxis.

On January 8, 2008, the Commission considered the City Controller's Taxi Industry Report which was automatically triggered by a decision to issue more taxis; and the Commission adopted findings to issue the new medallions by a vote of 5-1.

Three appellants have challenged the Taxi Commission's decision to issue more taxis for the following reasons:

- An increase in the number of taxis will have a detrimental effect on driver's income, an effect appellants claims the Taxi Commission did not address.
- The evidence does not support the decision because the PC&N proceedings were flawed for the following reasons:
 1. The 07-08 survey in advance of the annual 2008 PC&N hearing was not submitted to the Commission prior to the January 8, 2008 decision; and
 2. The Commission could not gauge the effect of the previously issued 50 cabs; and
 3. The original 06-07 PC&N taxi availability survey was unreliable.
- The Commission did not consider alternative approaches to service improvements.

companies to control a minimum number of taxis in order to qualify for a dispatch permit. Yet, consolidation of companies will be a slow process given resistance of smaller companies to a rule change. In the meantime, this data shows that service is better with greater numbers of taxis. Thus, in an effort to serve unmet need that the Commission has identified, issuing more taxis may be the only immediate solution.

III. CONCLUSION

The Taxi Commission, the governing body charged with deciding the appropriate number of taxis for San Francisco, has reasonably concluded that there is an unmet need for taxis in this city and that this unmet need warrants 69 more taxis in the San Francisco fleet. The appellant has not offered or shown that a different number would be appropriate. Accordingly, the Taxi Commission respectfully requests that the Board of Appeals uphold the Commission's decision.

DATED: March 17, 2008

Respectfully submitted,



HEIDI MACHEN
Executive Director

For Respondent
San Francisco Taxi Commission



1 Complaint 2002

8.

To the S.F. Sunshine Ordinance Task Force (All evidence can be found on City Watch Ch.26 T.V. video tapes)
9/19/02 (Yellow cab driver 14 yr., S.F. Native)

From Peter Witt
1627 Filbert St. 94123
(415) 928-1193

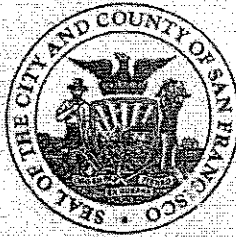
- 1.) Around? the second meeting after Richie Wiener became a Taxi Commission in 2000 at a Regularly Scheduled Meeting, Mary Louise Rattley (333-4001-?) ex- yellow cab order taker , Lou Lawson (468-5188) a Desoto cab driver , Jim Battles (752-4026) a Yellow driver and Mike Ryan (487-1266) a Yellow driver each informed one by one President, Lynette Sweet of their request to give their three minutes of speaking time to myself, Peter Witt (as had been done before)
- 2.) / -She would not allowed me to speak on their behalf. (as I had done)
/ - Nor did she inform anyone prior to that, that their speaking time would not be given too another speaking on their behalf.
/ - Denying each speaker a chance to speak if they so wished to do on their owe behalf.
- 3.) On Dec. 11th 2001, at the 2001 "P. C. & N." Hearing; While the speaker Mr. Brooks Dyer (?) - driver/owner- was commenting on how he felt that Commissioner , Mary Mc Guire(driver Rep.) did not have to request herself as she done before given the circumstances . When President Lynette Sweet interrupted him before his speaking time was up.
/ -She said something like " No you can't do that here" (he could not offer his opinion)
/ -She then said, in effect "there was no proper place to do so " (Offer his opinion)
/ -She then said, in effect "I could display two grafts. But unlike in the time it took to set up
- 4.) On July 23rd 2002 at a Regularly Scheduled Meeting; Before I spoke, as I had done in the past, I requested for the viewer be turned on, so I could display two grafts. But unlike in the time it took to set up the screen (about 1 minute) was taken off my 3 minutes of speaking time, despite "the call (mine) and the pointing to order"
/ Consequently without notice I was denied my full speaking time.
/ No advice offered by attorney (taxi drivers have no union.)
- 5.) After that Regularly Scheduled Meeting on July 23rd 2002; President Lynette Sweet approached me from behind and asked me for a minute of my time. She started by saying, "you have to be the rudest person that I've ever met" and then proceeded to say,
/ "I'm not going to allow in my _____ ? (I forgot exactly what the President Sweet called it.)
I then asked her if she was going to throw my out. When she replied "No". Then I asked her what she was going to do.
/ - Her reply was "you'll find out".
/ That's when I asked her "Is that a treat" she replied;
/ "That's a promise"
I asked her if she was trying to intimidate me. I don't recall her exact answer, but at some point Tuned my head to George England (279-3890) a Luxor driver as he was leaving, who over heard most of the conversation between President Sweet and myself and who's phone number I just happened to get early that night.
- 6.) On August 13th 2002 during a Regularly Scheduled Meeting; While I was addressing item #9 on that nights agenda.
/ - President Sweet interrupted me (?) with about 1 minute left on my speaking time.
/ - I was Told I was not on the subject. the Mic. was turned off, I was ordered remove.
/ - Not allowed to speak on item # 10
/ - Nothing in writing that clarifies and informs my why was not allowed to continue speaking.
(I felt I was very much on the subject - * morale - why drivers should not be mandated to take C.P.R. training at this time)
- 7.) *While I was being escorted out of the building on Aug. 13th Officer Simpson from the Taxi Detail informed my that if I did "it" again that a warrant would be issued to my at my home, for disrupting a public meeting. For which I am very unclear , prior to being ejected.

* This commission I feel is and has always been in clear violation of the City's charter as mandated in Prop. D. (The guidelines and foundation by which the taxi commission is based on), specifically that being free from police taxi detail involvement except other than of the enforcement.
Truly yours , Signed , Peter Witt

9/19/02

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ou.

Sunshine Ordinance Task Force

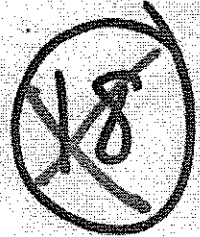


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<http://www.sfgov.org/sunshine>
**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE**

DRAFT MINUTES*

**Wednesday, March 10, 2004
3:00 p.m., City Hall, Room 408**



Committee Members: Richard Knee, Chair, Nicole Dogwill, Alexandra Nickliss

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

Call to Order/Roll Call/Agenda Changes

1. Approval of minutes of February 11, 2004 & February 21, 2004.

Minutes approved. (Nickliss/Dogwill)

2. Administrator's report.

Report given by Administrator.

3. Peter Witt regarding his complaints against the Taxi Commission.

Peter Witt addressed the Committee regarding his complaints against the Taxi Commission of not being able to use the overhead projector and being interrupted when giving public testimony.

Naomi Little, Executive Director, Taxi Commission, addressed the Committee regarding the Taxi Commission position regarding Mr. Witt's complaints.

Consensus of the Committee that there has been no violation. Chair Knee stated that if there is perceived continued violation, then the Committee will take this back to the full Task Force for referral to the Ethics Commission, which is empowered to take enforcement actions. We would need to see some more evidence than what we have been provided tonight of the allegations.

4. Steve Lawrence regarding additional complaint against the Public Utilities Commission. Continued to the next meeting.

ORDER OF DETERMINATION

Force found that the Chair of the Commission impermissibly interrupted and prevented Mr. Witt from providing public comment on an agenda item, thereby depriving Mr. Witt of equal speaking time. The Task Force also found that the Taxi Commission failed to include brief written statements of testimony, provided by Mr. Witt to the Commission, in the Commission minutes.

DECISION AND ORDER OF DETERMINATION

The Task Force finds that the agency violated Section(s) 67.15 and 67.16 of the Sunshine Ordinance for interrupting a public speaker, depriving a public speaker of equal speaking time, and failure to include a brief (written statement) in the minutes. The Task Force directs the Taxi Commission to allow the public the opportunity to give their public comment on an agenda item without interruption; so long as/until the point which it becomes clear that the public comment has no relation to the agenda item under discussion. The Task Force also encourages the Chair to use his/her broad discretion to allow public comment to continue and to err on the side of allowing public comment to proceed to the full allotted time.

The Task Force further recommends that the Taxi Commission adopt and publicize procedures to facilitate the use of audio-video presentations by public speakers. For example, by providing notice in agendas and on the Commission's website that public speakers who intend to use audio-visual equipment at a particular meeting contact the Commission secretary in advance to discuss their needs, and that the staff member assist the public speaker with providing audio-video presentations as feasible.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on May 27, 2008 by the following vote: (Craven / Knee)
Ayes: Craven, Knee, Cauthen, Gokhale, Washburn, Comstock, Pilpel, Chu, Chan, Goldman, Williams

[Signature]
Doug Comstock, Chair
Sunshine Ordinance Task Force

- c: Ernie Llorente, Deputy City Attorney
Peter Witt, Complainant
Jordanna Thigpen, Respondent

Ref.
2, Complaint
2003
-Overlooked-



PETER WITT
<wittup@sbcglobal.net>

12/19/2008 02:03 PM

Please respond to
wittup@sbcglobal.net

To soft@sfgov.org

cc

bcc

Subject Case # 085053

To the Honorable S.O.T.F.

Ref. Case # 08053 Witt v. Taxicab Commission

In my first complaint against the Taxicab commission (TXC) in 2002. I was interrupted and throw -claiming off subject.

In 2003, the Sunshine "compliance" committee took my second complaint. In Feb. 2004, they determined "There has been no violation on Aug. 12th 2003. Chair Knee stated that if there is a perceived continued violation, then the Committee will take this to the full Task Force for referral to Ethics Commission, which is empowered to take enforcement actions".

On June 4, 2008 the S.O.T.F. determined there had been a perceived continued violation on Aug. 12th 2003 (Not allowed to use projector while other speaker was) and Oct. 24th, 2006.

It has been my contention the TXC since 2002 has been abusing its powers. By misleading the public and this Task Force. Through manipulation and withholding specific records from the public. Mainly for P.C. & N. purposes.

One case exemplified is on Feb. 13th 2007 which can be viewed on SFGTV (Under; Taxicab commission) and compared to the minutes.

- 1.) Time01:04:57.....Tris.....Same complaints as last year , you call a cab they don't come.
- 2.) Time.....01:9:19.....Corey Lame, NO COMMENTS INCLUDED AT ALL !!!!!!!
- 3.) Time.....>After<Corey Lame, No name and Not representative of what he said.
4. Time>After <First No name,.....Not included in minutes
- 5.) Time ...>After<Second No name,.....Not included in minutes
- 6.) Time ...>After <Third No name,Not included in minutes
- 7.) Time2:08:13 to 2:12:00.....Minutes don't reflect > I was thrown out and submitted corrections and my preliminary report on 10years of customer feedback <
- 8.) Time.....2:11:30.....Peter (another) speaksNot included in minutes.
- 9.) Time2:37:07.....Phil SterlingNot included in minutes.
- 10.)Time ...>Before< Phil Sterling, Tariq Mehmood who says "Bogus Survey" ref. to TXC's
- 11.)Time>After< Tariq, Karen Horning who says "Disgraceful Survey" not... "bad" as the TXC's minutes read and refers to dispatch which is not included and goes on to say she won't service the hotels of S.F..... which also was NOT included.

I recommend each and every member of the S.O.T.F. review the Feb. P.C.&N. of 2007 as this

was included in my 3# complaint 08020 sent 4/1/08 to the Task Force. It was on this meeting that I was throw out/ escorted out by the police for the third time.

I would specifically listen to , Phil Stering comments, which were omitted altogether.

Thank you.... if you've take the time to go over the facts, from a peasant's point of view.

Sincerely , Peter Witt.