

Date: Oct. 12, 2010

Item No. 1

File No. _____

SUNSHINE ORDINANCE TASK FORCE
COMPLAINT COMMITTEE
AGENDA PACKET CONTENTS LIST*

- Draft Minutes: Complaint September 14, 2010**
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____

Completed by: Chris Rustom

Date: Oct. 6, 2010

***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.

Sunshine Ordinance Task Force



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**SUNSHINE ORDINANCE TASK FORCE
COMPLAINT COMMITTEE
DRAFT MINUTES**

Tuesday, September 14, 2010
3:30 p.m., City Hall, Room 406

Committee Members: James Knoebber (Chair), Richard Knee, Allyson Washburn

Call to Order: 3:30 p.m.

Roll Call: Present: Knoebber, Knee
Excused: Washburn

Agenda Changes: None

Deputy City Attorney: Jana Clark (not present)
Clerk: Chris Rustom

1. Approval of June 8, 2010, meeting minutes.

Motion to approve June 8, 2010, meeting minutes (Knee / Knoebber)

Public Comment: None

On the motion:
Ayes: Knee, Knoebber

Motion passes.

2. Approval of August 10, 2010, meeting minutes.

Motion to approve August 10, 2010, meeting minutes (Knee / Knoebber)

Public Comment: None

On the motion:
Ayes: Knee, Knoebber

Motion passes.

3. 10041 Determination of jurisdiction on complaint filed by William and Robert Clark against the Mayor, the Board of Supervisors, and the Arts Commission for

passing an Ordinance that allows the Arts Commission to charge a fee to process public document requests.

Co-complainant William Clark said the Sunshine Ordinance says that the work of responding to a public-records request and preparing documents for disclosure is part of the regular work duties of any City employee, and no fee shall be charged. He said the Arts Commission recently proposed a fee increase for street artists to pay for clerical and legal staff time spent processing public document requests. He said Luis Cancel, who is the Director of Cultural Affairs at the Arts Commission, recently told the Board of Supervisors' Budget Committee that the Arts Commission was supposed to be cost neutral. The Arts Commission, he said, had a \$90,000 revenue and therefore the fee increase was unnecessary. The rate hike, he said, was a way to discourage street artists from asking to see and inspect the Arts Commission's budget and finance documents.

Respondent Howard Lazar, Director of the Street Artists Program, said the respondents have not violated the Sunshine Ordinance and the Street Artists Ordinance. He said besides responding to public document requests the program also involves activities such as reviewing, processing and issuing street artists certificates and handling budgeting issues among others. He said the Arts Commission determined that a fee hike was needed was based not on one single issue but on the costs involved in administrating the program. He said the Task Force had no jurisdiction on the complaint because the Sunshine Ordinance does not prohibit the City from setting a permit fee based on costs associated with running a program. Challenging the costs incurred in running a program is for the courts and not the Task Force.

Member Knee said he supported jurisdiction even though he agreed with Mr. Lazar's point of view because the Task Force could consider motivation when it hears the merits of the case.

Chair Knobber said he was also leaning towards jurisdiction regardless of the presentations made by both parties.

Mr. Lazar did not rebut. Co-complainant William Clark said Proposition K in 1983 gave the Arts Commission authority to raise fees only when necessary, which is not a factor in this case because the Controller had found that the Arts Commission had a surplus of \$30,000 in funds.

Motion to find jurisdiction: (Knee / Knoebber)

Public Comment: None.

On the motion:

Ayes: Knee, Knoebber

Motion passes.

4. 10045 Determination of jurisdiction on complaint filed by Randall Evans against Mo' Magic for not responding to an Immediate Disclosure Request.

Complainant Randall Evans said Mo' Magic is located at the corner of Eddy and Filmore and it is also the area where the San Francisco African American Unfinished Agenda Cooperation operates. He said the Unfinished Agenda Cooperation has asked Mo' Magic for certain information and they have yet to provide the documents. He said groups that receive public funds need to be transparent.

Respondent Sheryl Davis of the Public Defender Office said Mo' Magic was not a 501(c)(3) non-profit organization and did not receive any public funding. She said Mo' Magic works with partners in the neighborhood which receive and spend their own funds. She said she gets reimbursed for her expenses, but her salary was paid by the Public Defender. She said the total amount of foundation grants and City funds the collaborative receives was less than \$250,000 a year. She said she convenes monthly meetings and the annual report discusses funding issues. However, she said, detailed finance records are handled by the partner organizations and not by the Public Defender.

To Member Knee, Ms. Davis said the organizations received less than \$150,000 last year and neither does she nor Mo' Magic have any contractual agreement with the City.

During rebuttal, Ms Davis said if it was really about gathering information and not about harassment, she could get the information. She said someone walked into her office one day, dropped a letter on her desk and said: "See you in court."

Mr. Randall said he was the person who walked into Ms. Davis' office and delivered the Sunshine request. He said his request has nothing to do with harassment but only about seeking information about groups and individuals who come into the community and claim to look after the children and community events. He said that if she does not have the information he would look for it in another way.

Member Knee said since Mo' Magic does not receive \$250,000 annually there is no jurisdiction.

Chair Knoebber agreed.

Motion to find no jurisdiction (Knee / Knoebber)

Public Comment: Tina Collins said she is an activist in the Western Addition and through Ms. Davis and her coalition, violence in Plaza East, where she and her family reside, has subsided. She said youth in the area now come to Mo' Magic's offices to do their homework She said she was in the room with another volunteer when the paper was thrown on Ms. Davis' table. Daniel Solberg, who is the Secretary and Treasurer at the Unfinished Agenda Cooperation, said Mo' Magic may not have a 501(c)(3) but it conducts its business as if it is one. He said if no jurisdiction was to be found, it was of grave concern to the public that the public now has to go to every entity and request the information. He urged the committee to find for jurisdiction.

Member Knee said the Committee is not considering the merits of the case. It is merely saying that under the bar set by Chapter 12L of the Admin Code, there is no jurisdiction. He suggested the matter will be reported to the full Task Force on September 28 and recommended that the parties then ask the Task Force to overturn the Committee's findings.

On the motion:

Ayes: Knee, Knoebber

Motion passes.

5. 10046 Determination of jurisdiction on complaint filed by Joseph Victor Lagana against the Police Department for not releasing Computer Assisted Dispatch records pertaining to a 2008 arrest case.

Complainant Joseph Victor Lagana said the Task Force has jurisdiction because the Police Department is a Charter body. He said he has been asking for the records from the department and it denies ever receiving such a request. He handed over a document marked Exhibit A. He said he gets the police reports but is constantly denied the Computer Assisted Dispatch records because it shows the careless liability on the City. The officers are lying and withholding evidence, he said.

Respondent Lt. Simon Silverman of the Police Department said the department does not dispute jurisdiction but in this case the department may not be the correct respondent because Computer Assisted Dispatch records are kept by the Office of Emergency Management.

In rebuttal, Lt. Silverman again said the department does not dispute jurisdiction and his answer to the Task Force on the merits would be the same because the department is not the custodian of the record. Mr. Lagana said the Police Department will delay this as long as possible. He said he has contacted the Office of Emergency Management and have reached an agreement. This is about the respondent delaying evidence, he said.

Motion to find jurisdiction (Knee / Knoebber)

Public Comment: None

On the motion:

Ayes: Knee, Knoebber

Motion passes.

6. Administrator's Report.

Mr. Rustom made the report.

Public Comment: None

7. Public comment on items not listed on the agenda: None.

8. Announcements, comments, questions, and future agenda items from Committee members.

None

Adjournment

The meeting adjourned at 4:10 p.m.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force