

Date: Oct. 14, 2008

Item No. 3  
File No. 08046

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

- Determination of jurisdiction of complaint filed by Karl Beal**
- against the Recreation and Park Department and the Public**
- Library for incomplete meeting information.**
- 
- 
- 
- 
- 
- 
- 
- 

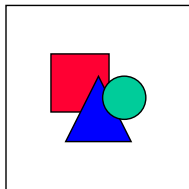
Completed by: Chris Rustom

Date: Oct. 10, 2008

**\*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

DIRECT DIAL: (415) 554-4236  
E-MAIL: ernest.llorente@sfgov.org

October 8, 2008

Nick Goldman, Chair  
Members of the Complaint Committee

Re: Karle Beale v. the San Francisco Recreation & Park Department and the San Francisco Public Library (08046)

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 Karl Beale against the San Francisco Recreation & Park Department ("Rec/Park") and the San Francisco Public Library ("Library").

### **BACKGROUND**

Rec/Park and the Library scheduled a joint master planning workshop for the Joe DiMaggio North Beach Playground and the North Beach Branch Library for August 18, 2008 at 7:00 p.m. The meeting included a joint presentation from Rec/Park and the Library and was noticed by posting on the Library's website and by mailing and posting information flyers.

### **COMPLAINT**

On August 26, 2008, Karle Beale filed a complaint against Rec/Park and the Library. Karle Beale alleged that Rec/Park failed to notify the public of the August 18, 2008 meeting on Rec/Park's website. Karle Beale also alleged that Rec/Park and the Library failed to provide adequate disclosure of the agenda/purpose of the meeting in the public notification.

### **THE REC/PARK DEPARTMENT AND THE LIBRARY RESPOND**

On September 9, 2008, Rec/Park and the Library issued a joint letter stating that their workshop notice did not violate the Sunshine Ordinance or the State Brown Act.

### **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. Although the allegations do not give rise to violations by Rec/Park or the Library under 67.7 since these departments are not policy bodies and are not required to give public meeting notices that are required by policy bodies -the allegations may be covered under section 67.7-1 of the Ordinance.

Letter to the Complaint Committee

Page 2

October 8, 2008

### **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. The definition of Policy Body is in 67.3(d) of the Ordinance. The agenda and notice requirements for policy bodies are covered by 67.7. The Public Notice Requirement for City department, board, agency or commission is covered under 67.7-1.

In this case, the requirements of notice under 67.7 is not applicable because Rec/Park and the Library are not policy bodies and do not have to comply with the notice requirements of Policy Bodies.

However Section 67.7-1 may be applicable since the business of the workshop may be a matter that would impact residents of a particular area as to their individual property or that neighborhood area. The Task Force will determine whether the notice provided for the August 18, 2008 meeting violated the Ordinance.



<complaints@sfgov.org>

08/26/2008 12:29 PM

To <sotf@sfgov.org>

cc

bcc

Subject Sunshine Complaint

Submitted on: 8/26/2008 12:29:59 PM

Department: SF Recreation and Parks Department & SF Public Library

Contacted: Mr. Yomi Agunbiade, General Manger SFRPD, & Mr. Luis Herrera, City Librarian

Public\_Records\_Violation: No

Public\_Meeting\_Violation: Yes

Meeting\_Date: 8/18/08

Section(s)\_Violated:

Description: Failure by SF Recreation and Parks Department to notify the public of the August 18th, 2008 meeting on the department's website. This was the third of three North Beach Master Plan meetings, none of which were properly notified on the website. (Other meeting dates 4-30-08 and 5-28-08).

Failure of Recreation Department and Library to provide adequate disclosure of the agenda/purpose of the 8-18-08 North Beach Master Plan Meeting in the public notification.

Copy of public notice:

<http://sfpl.org/news/blip/pdfs/northbeachwrkshopbc.pdf>

An critical aspect of the 8-18-08 meeting was the public disclosure of the decision by SFRPD & SFPL to request the permanent closure of Mason Street. Residents and merchants should have been given the opportunity to weigh in at earlier meetings (but this topic was not disclosed on earlier notices)and should have again been given the opportunity to comment on the decision at the 8-18-08.

Hearing: Yes

Pre-Hearing: No

Date: 8-25-08

Name: Karl Beale

Address: [REDACTED]

City: San Francisco

Zip: 94133

Phone: 415- [REDACTED]

Email: [REDACTED]

Anonymous:

Confidentiality\_Requested: Yes

---

---

User Data

Client IP (REMOTE\_ADDR) : 172.31.2.103

Client IP via Proxy (HTTP\_X\_FORWARDED\_FOR) :

Sts. Peter and Paul Church invites you to a

# Master Planning Workshop

for the  
Joe DiMaggio North Beach Playground  
and North Beach Branch Library

**NEW  
DATE!**

**Monday, August 18, 2008  
7 p.m.**

**Sts. Peter and Paul Auditorium  
660 Filbert St.**

Join us in a presentation and discussion of potential locations and layouts for the new library, long range park improvements and updates on possible uses of the triangle property and potential changes to Mason Street. We've gathered lots of comments from the two previous community meetings and are studying and developing schemes in more detail.

Presented by the San Francisco Public Library  
and the San Francisco Recreation and Park Department

For more information, contact the Branch Library Improvement Program at (415) 557-4354 or Recreation & Park Department at (415) 581-2546 or [www.sfpl.org](http://www.sfpl.org).



*San Francisco Public Library*



City and County of San Francisco  
Recreation and Park Department

Please contact Muni's accessible service program for lines serving this area at (415) 923-6142. Oral and sign language interpreters are available by contacting Keith Kawamura at (415) 581-2546. The TDD phone number for the Recreation and Park Department is (415) 831-2700. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call Keith Kawamura at (415) 581-2546 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force at (415) 554-6083.

聖彼得和保羅教堂邀請您參加

# 重要的計劃研討會

討論

Joe DiMaggio北岸遊樂場  
和北岸圖書分館

**新日期！**

二零零八年八月十八日，星期一  
下午七時

聖彼得和保羅教堂禮堂  
660 Filbert 街

請加入我們一起提呈和討論具有潛力的新圖書館地點和其計劃圖，公園的持久使用改善計畫和三角地的使用以及改進 Mason 街的可能性。我們已在前兩次的社區會議收集很多的建議，而且正進行研讀和發展更詳細的設計。

由舊金山市立圖書館和舊金山遊樂和公園管理部門提供。

欲知詳細情形，請與圖書分館改善計劃聯絡(415)557-4354或致電遊樂和公園管理部門(415)581-2546 或上網[www.sfpl.org](http://www.sfpl.org)

請聯絡 muni 公車局的<便利殘障人士計劃>查詢該地區的路線服務，電話：(415)923-6142。請向 Keith Kawamura 查詢口語及手語翻譯，電話：(415)581-2546。康樂及公園局為聽障者提供的 TDD 電話號碼為(415)831-2700。患嚴重過敏、環境疾病者，對多種化學物敏感者以及患有相關疾病者，應致電 Keith Kawamura(415)581-2546 討論參加會議的可能性。為協助市府滿足所有大眾的需要，在此提醒公眾會議的與會者，某些人可能對各種不同的化學製品敏感，籲請與會者予以配合。

根據陽光法令 Sunshine Ordinance，任何人有知情權。政府的職責是服務大眾，充分了解公眾的意見之後才做決定。委員會、理事會、行政機構及其他的市縣部門是為市民而設立的。該法令保證決策經過深思熟慮，而且市府的運作開放予公眾檢視。要進一步瞭解陽光法令 (三藩市行政法典第 67 章) 賦予的權利，或舉報違反該法例，請致電 (415)554-6083，聯絡陽光法令工作組。



City and County of San Francisco  
Recreation and Park Department

McLaren Lodge in Golden Gate Park

501 Stanyan Street, San Francisco, CA 94117

TEL: 415.831.2700 FAX: 415.831.2096 WEB: <http://parks.sfgov.org>

Honorable Members, Complaint Committee  
Sunshine Ordinance Task Force  
c/o Frank Darby, Administrator  
1 Dr. Carlton B. Goodlett Place  
Room 244  
San Francisco, CA 94102-4689

September 9, 2008

**Re: Complaint #08046 Filed By Karl Beale Against The San Francisco Recreation and Park Department and the San Francisco Public Library**

Dear Complaint Committee Members:

This letter is in response to Complaint #08046 filed by Mr. Karl Beale on August 26, 2008 against the San Francisco Recreation and Park Department and the San Francisco Public Library (collectively, "the Departments"). The Departments received a copy of the Complaint on September 3, 2008. As explained below, the Sunshine Ordinance Task Force does not have jurisdiction over this matter.

The Complaint concerns an August 18, 2008 community meeting at the North Beach Branch Library entitled "Master Planning Workshop for the Joe DiMaggio North Beach Playground and North Beach Branch Library." The meeting included a joint presentation from the Recreation and Park Department and the Library, and was noticed by posting on the Library's website and by mailing and posting the flyer that is attached to Mr. Beale's complaint. The Complaint states that the Recreation and Park Department failed to notice the meeting on its website and that both Departments failed "to provide adequate disclosure of the agenda/purpose" of the meeting.

The Complaint does not contain any allegation that the Departments violated any City or State law. The part of the Complaint form that is designated "Section(s) Violated:" was left blank by Mr. Beale. The failure to cite any violation in the Complaint form is simply a result of the fact that there is no law that could be cited. Indeed, there is no provision of either the Sunshine Ordinance or the Brown Act that is applicable to the August 18<sup>th</sup> community meeting cited in the Complaint. The August 18<sup>th</sup> community meeting was not a meeting of a "policy body" as defined by the Sunshine Ordinance, or of a "legislative body" as defined by the Brown Act. Accordingly, there are no notice or agenda requirements under City or State law applicable to that meeting.

Because the Complaint does not allege a violation of City or State law, and because no Sunshine Ordinance or Brown Act provision applies to the August 18<sup>th</sup> meeting, the Task Force does not have jurisdiction over this matter. A complaint must concern an alleged violation of



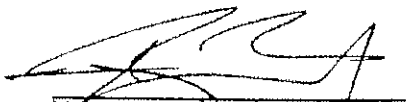
Mayor Gavin Newsom  
General Manager Yomi Agunbiade



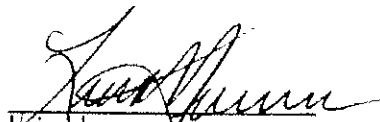
law; it cannot be based on the mere fact that the complainant does not like or agree with the City's conduct in a given instance.

We hope this letter will be of assistance to the Complaint Committee in determining its jurisdiction over this matter. If we can be of further assistance to the Committee with respect to Mr. Beale's complaint, please do not hesitate to contact either of us.

Very truly yours,



Yomi Agunblade  
General Manager SFRPD



Luis Herrera  
City Librarian